IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 30 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

RESOURCES DIVERSIFIED, INC., Plaintiff,	)	
vs.	)	No. 82-C-398-B
CARL W. MARTIN, Defendant.	)	

JUDGMENT

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered for the plaintiff, Resources Diversified, Inc., and against the defendant, Carl W. Martin, on Count One in the sum of One Hundred Sixteen Thousand Four Hundred Eighty-Nine and 40/100 Dollars ($116,489.40) with interest at the rate of 6% from October 5, 1981 until this date; IT IS FURTHER ORDERED Judgment is hereby entered for the plaintiff, Resources Diversified, Inc., and against the defendant, Carl W. Martin, on Count Two in the sum of Three Thousand Dollars ($3,000.00) with interest at the rate of 6% from June 5,1981 until this date. IT IS FURTHER ORDERED the defendant is hereby granted judgment against the plaintiff on Count Three. IT IS FURTHER ORDERED the plaintiff is to have judgment for interest at the rate of 15% on both of said sums from this date, the costs of this action, and each party is to pay their own respective attorney's fees.

ENTERED this 30th day of September, 1982.

Thomas R. Brett

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

SEP 30 1982

Jack C. Silver, Clerk
U. S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HOPE MORENO LEOS, Plaintiff, v. McDONNELL DOUGLAS CORPORATION, Defendant.	Civil Action No. 81-C-304-C

JUDGMENT

Pursuant to the Findings of Fact and Conclusions of Law filed 13 May 1982, it is hereby Ordered that judgment be entered in favor of the Defendant and against the Plaintiff, that the Plaintiff take nothing, that the action be dismissed on the merits and that the Defendant recover of the Plaintiff its costs of action, in the amount of Seven Hundred Thirty-six Dollars and Seventy-two Cents ($736.72).

The Court further finds that the parties have agreed that the Defendant is entitled to a reasonable attorney fee from the Plaintiff, and it is hereby Ordered that judgment be entered in favor of the Defendant and against the Plaintiff for the reasonable attorney fee in the agreed upon amount of Ten Thousand Dollars and No Cents ($10,000.00).

It is so Ordered this 30th day of September, 1982.

H. DALE COOK
Chief Judge, U. S. District Court

Approved as to form and content:

Thomas D. Robertson
Nichols & Wolfe, Inc.
Suite 400, Old City Hall Bldg.
124 East Fourth Street
Tulsa, Oklahoma 74103
Attorneys for Defendant

Georgia B. Landman
707 South Houston, Suite 301
Center Office Bulding
Tulsa, Oklahoma 74127
Attorney for Plaintiff

Hope Moreno Leos

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-159-B
ROBERT B. WESTER, JR., Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 20 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds, Jr., Assistant United States Attorney, and the Defendant, Robert B. Wester, Jr., appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Robert B. Wester, Jr., was personally served with Summons and Complaint on February 12, 1982. The Defendant has not filed an Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount of $388.27 and that Judgment may accordingly be entered against him in the amount of $388.27, without interest.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Robert B. Wester, Jr., in the amount of $388.27, without interest.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

PHILARD L. ROUNDS, JR.
Assistant U.S. Attorney

ROBERT B. WESTER, JR.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 30 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

WILLIAMS EXPLORATION COMPANY, RUDMAN RESOURCES, INC., C. F. BRAUN & CO., and RAYMOND A. WILLIAMS, JR., Plaintiffs,	
v.	Civil Action No. 80-C-476-B
UNITED STATES DEPARTMENT OF ENERGY and CHARLES W. DUNCAN, SECRETARY OF ENERGY, Defendants.	

STIPULATION OF DISMISSAL

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, the undersigned parties hereby stipulate that the complaint in the above-captioned action be dismissed without prejudice, each party to bear its own costs.

Respectfully submitted,

Kent L. Jones
HALL, ESTILL, HARDWICK, GABLE,
COLLINGSWORTH & NELSON
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
Attorneys for Plaintiffs.

Mark Kreitman
Beth Mizuno
U.S. Department of Energy
Office of General Counsel
1000 Independence Ave., S.W.
Forrestal Bldg., Rm. 6H-058
Washington, D.C. 20585
Attorneys for Defendants.

So Ordered:

United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORIN P. FUNDERBURK, Plaintiff, v. AMOCO PRODUCTION COMPANY, a foreign corporation, Defendant.	))))))))))	No. 81-C-880-E

ORDER OF DISMISSAL

This cause having come before this Court on the Joint Application for Dismissal with Prejudice, and this Court being fully advised in the premises and the parties having stipulated, and the Court having found that the parties have reached a private settlement of the individual claims of Plaintiff and that such claims should be dismissed, it is, therefore,

ORDERED, ADJUDGED and DECREED that the Complaint of Plaintiff, and his causes of action set forth therein, be and hereby are dismissed with prejudice, with each party to bear its own costs.

So Ordered this 30 day of September, 1982.

S/ JAMES O. ELLISON

U.S. District Court Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 30 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

PATRICIA L. HUGHES,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA
and UNITED STATES POSTAL SERVICE,

Defendants.

and

RICHARD D. HUGHES,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA
and UNITED STATES POSTAL SERVICE,

Defendants.

CIVIL ACTION NUMBERS
81-C-519-B & 81-C-520-B
CONSOLIDATED

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law entered this date, Judgment is hereby entered in favor of Patricia L. Hughes and against the defendant in the sum of Twenty Three Thousand One Hundred Dollars ($23,100.00), plus the costs of this action, AND IT IS FURTHER ORDERED Judgment is entered in favor of Richard D. Hughes in the sum of Eleven Thousand One Hundred Sixty Three and 48/100 Dollars ($11,163.48) plus the costs of this action. IT IS FURTHER ORDERED on both judgments interest shall run from the date of this Judgment at the rate of four percent (4%) in accordance with 28 U.S.C.A. §2411(b).

ENTERED this 30th day of September, 1982.

Thomas R. Brett

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 30 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

HOPE MORENO LEOS, Plaintiff,	)	
v.	)	Civil Action No. 81-C-304-C
McDONNELL DOUGLAS CORPORATION, Defendant.	)	

JUDGMENT

Pursuant to the Findings of Fact and Conclusions of Law filed 13 May 1982, it is hereby Ordered that judgment be entered in favor of the Defendant and against the Plaintiff, that the Plaintiff take nothing, that the action be dismissed on the merits and that the Defendant recover of the Plaintiff its costs of action, in the amount of Seven Hundred Thirty-six Dollars and Seventy-two Cents ($736.72).

The Court further finds that the parties have agreed that the Defendant is entitled to a reasonable attorney fee from the Plaintiff, and it is hereby Ordered that judgment be entered in favor of the Defendant and against the Plaintiff for the reasonable attorney fee in the agreed upon amount of Ten Thousand Dollars and No Cents ($10,000.00).

It is so Ordered this 30th day of September, 1982.

s/H. DALE COOK

H. DALE COOK
Chief Judge, U. S. District Court

Approved as to form and content:

Thomas D. Robertson

Thomas D. Robertson
Nichols & Wolfe, Inc.
Suite 400, Old City Hall Bldg.
124 East Fourth Street
Tulsa, Oklahoma 74103
Attorneys for Defendant

Georgia B. Landman

Georgia B. Landman
707 South Houston, Suite 301
Center Office Bulding
Tulsa, Oklahoma 74127
Attorney for Plaintiff

Hope M. Leos

Hope Moreno Leos

FILED
1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-158-C
MICHAEL D. VISOR, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 28 day of Sept, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Michael D. Visor, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Michael D. Visor, was personally served with Summons and Complaint on August 25, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Michael D. Visor, for the principal sum of $238.97, plus interest at the legal rate (15%) from the date of this Judgment until paid.

s/H. DALE COOK
UNITED STATES DISTRICT JUDGE

FILED
1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MONTGOMERY ELEVATOR CO., A Corporation, Plaintiff,	)	
vs.	)	No. 82-C-841-E
INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS, LOCAL UNION NO. 83, Defendant.	)	

DISMISSAL OF ACTION

COMES NOW the Plaintiff, Montgomery Elevator Co., by and through its undersigned attorney of record, and pursuant to the provisions of Rule 41(a)(1) of the Federal Rules of Civil Procedure, dismisses the above-styled cause of action without prejudice.

SUBLETT, McCORMICK, ANDREW & KEEFER
Attorneys for the Plaintiff
Suite 1776, One Williams Center
Tulsa, OK 74172

By Stephen L. Andrew

CERTIFICATE OF MAILING

I, the undersigned, Stephen L. Andrew, do hereby certify that I mailed a true and correct copy of the above and foregoing document to the following person, with sufficient postage thereon fully prepaid, on this, the 29th day of September, 1982:

Mr. Tom Armstrong
Dyer, Powers, Marsh, Turner & Armstrong
Attorneys for Defendant
Pepsico Place
Tulsa, OK 74103

Stephen L. Andrew

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DOUBLE W RANCH, an Oklahoma business trust, Plaintiff,	)	
vs.	)	No. 82-C-513-B
DUNNE EQUITIES, INC., a Kansas corporation, Defendant.	)	

FILED
SEP 29 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

This matter comes before the Court on defendant's Motion to Dismiss. For the reasons set forth below, the motion is granted and the action dismissed.

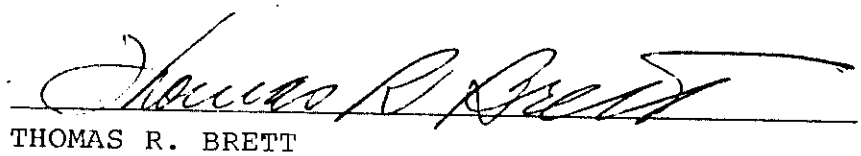
The defendant Dunne Equities, Inc., has moved to dismiss this action alleging an action is pending in the District Court of Creek County, Oklahoma (No. C-79-320), involving issues identical to the ones presented by the case at bar. Defendant further asserts the state court action was filed approximately two and a half years prior to the filing of this matter.

At a pre-trial conference held in this case on September 7, 1982, the Court directed the plaintiff to submit to the Court the petition filed in the state court action in order that the Court might determine whether the issues involved in the two actions are sufficiently similar to warrant a dismissal of this case. Plaintiff has supplied the Court with the requested document as well as an opinion of the Oklahoma Court of Appeals which addressed the trial court's denial of plaintiff's application for a temporary restraining order.

Although the allegations of the Petition are not highly detailed, the opinion of the Court of Appeals reveals the issues in the state court action are virtually identical. It is true plaintiff has asserted alternative theories of recovery in this action which were not alleged in the state court petition; however, the issues arising from the petition subsume and will necessarily adjudicate those presented here. The basic question appears to be whether the owner of mineral rights in a land-locked parcel of land has the right of ingress and egress over adjoining land which he does not own but which was conveyed from a source of title common to his mineral rights. In reviewing the allegations of the Complaint herein, the Court concludes the adjudication of this question in the previously-filed state court action will or should resolve all issues raised by plaintiff in this suit. The Court finds it is arguable whether the resolution of this question will dispose of plaintiff's assertion that the maintenance of a pipeline across the subject property is a public or private nuisance. Considerations of judicial economy, however, counsel that this Court leave that matter to the state court as well. Plaintiff can place this matter in issue in the state court by amending its pleadings if it has not already done so.

IT IS THEREFORE ORDERED defendant's Motion to Dismiss is hereby granted and the action dismissed without prejudice.

ENTERED this 29 day of September, 1982.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

SEP 29 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO.82-C-692-B
W. D. GAZAWAY, Defendant.	)	

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 29th day of September, 1982.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

FILED

SEP 28 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OKLAHOMA

PARTHEINA L. RAPER, et al,	)	
Plaintiff,	)	
vs.	)	No. 82-C-799-E
PUROLATOR COURIER CORPORATION, et al	)	
Defendant.	)	

ORDER OF DISMISSAL

NOW, on this 28 day of September, 1982, this matter comes on before the undersigned Judge upon Plaintiff's Application for Order of Dismissal, and the Court having reviewed same, finds that said Application should be sustained and an Order of Dismissal issued.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above numbered and styled cause against the Defendant National Indemnity Company only, be and the same is hereby dismissed.

S/ JAMES O. ELLISON
Judge of the District Court

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of September, 1982, I mailed a true and correct copy of the above and foregoing Order of Dismissal to the National Indemnity Company, Claims Examiner, Max Levine, 4016 Farnam Street, Omaha, Nebraska 68131, by U.S. Mail, with proper postage thereon fully prepaid.

Stephen C. Wolfe

FILED
1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GENERAL CORROSION SERVICES CORPORATION, Plaintiff,	)	
vs.	)	NO. 82-C-735-B
C.E. EQUIPMENT COMPANY, INC. and HARCO CORPORATION, Defendants.	)	

O R D E R

This matter comes before the Court on the Motion to Quash and Dismiss of Bill L. Harer, service agent for Harco, Inc., for improper service and lack of personal jurisdiction. For the reasons set forth below, the Motion is sustained.

On August 2, 1982, Bill L. Harer was served with a summons issued on behalf of the Plaintiff, General Corrosion Services Corporation, erroneously addressed to "Bill Harer, Agent for Harco Corporation, 2927 S. 67th East Avenue, Tulsa, Oklahoma, 74129." It appears from the record that Bill Harer is the president, director and service agent for Harco, Inc., a Delaware corporation domesticated in Oklahoma which is not a party to the matter at bar. Thus, service on Bill L. Harer, service agent for Harco, Inc., was ineffective service on Harco Corporation. The Court notes that the Plaintiff agrees that its service on Bill L. Harer, service agent for Harco, Inc., was ineffective service on the Defendant, Harco Corporation.

IT IS THEREFORE ORDERED that Bill L. Harer's Motion to Quash and Dismiss service on Harco, Inc. is sustained for lack of proper service and the cause of action is dismissed as to Harco, Inc. and/or Bill L. Harer. Inasmuch as Plaintiff relied upon the information given it by the Oklahoma Secretary of State and inadvertently served Bill L. Harer as service agent for Harco Corporation, Bill L. Harer's request for attorney's fees is denied.

ENTERED this 28th day of September, 1982.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

WESTERN FARM BUREAU LIFE INSURANCE COMPANY, Plaintiff,	)	
vs.	)	No. 80-C-480-E ✓ 81-C-9-E
SANDRA LEE FOSTER, now HUDSON, individually and as next friend of MICHAEL DEAN COOK a/k/a MICHAEL DEAN FOSTER, MITCHEL LEE COOK, a/k/a MITCHEL LEE FOSTER, and RHONDA MICHELLE FOSTER, and ROBIN GAY FOSTER SELLERS, individually and as administratrix of the Estate of Robert E. Foster, deceased, Defendants.	)	(CONSOLIDATED)

FILED

SEP 28 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding; Western Farm Bureau Life Insurance Company appeared by its attorney Jim K. Goodman; Sandra Lee Foster, now Hudson, and Ester Baldridge, guardian of the persons and estates of Michael Dean Cook a/k/a Michael Dean Foster, Mitchel Lee Cook a/k/a Mitchel Lee Foster and Rhonda Michelle Foster, minors, appeared by their attorney Thomas L. Palmer; Robin Gay Foster Sellers, individually and as administratrix of the Estate of Robert E. Foster, deceased, appeared by her attorney Dana L. Lyons; and Craig W. Hoster, guardian ad litem for Rhonda Michelle Foster, appeared personally; and all parties announced that a settlement has been agreed to. After being fully advised in the premises, the Court finds and Orders as follows:

I.

The Court finds that it has sole jurisdiction over the subject matter of this action and of the parties; that pursuant to this action in the nature of interpleader, Plaintiff has deposited into the registry of this Court, the sum of Thirty-seven Thousand Eight Dollars Sixty-two Cents ($37,008.62); that Plaintiff has agreed to pay and deposit into the registry of this

Court, the additional sum of Twelve Thousand Five Hundred Dollars ($12,500.00), in compromise settlement with all claimants as to any liability Plaintiff might have under the double indemnity rider of Plaintiff's life insurance Policy No. 126042 issued on the life of Robert E. Foster, deceased.

II.

IT IS ORDERED AND ADJUDGED that judgment be entered in favor of Defendant Sandra Lee Foster, now Hudson, and against the Plaintiff and the fund heretofore paid into Court in the sum of Fourteen Thousand Five Hundred Eighty-three Dollars and Thirty-three Cents ($14,583.33).

III.

IT IS FURTHER ORDERED AND ADJUDGED that judgment be entered herein for Defendant Robin Gay Foster Sellers, individually, and not as Administratrix of the Estate of Robert E. Foster, deceased, and against the Plaintiff and the funds paid into Court in the sum of Eight Thousand Seven Hundred Fifty Dollars ($8,750.00).

IV.

IT IS FURTHER ORDERED AND ADJUDGED that judgment be entered herein for Defendant Rhonda Michelle Foster, a minor, eleven (11) years of age born on the 7th day of July, 1971 and against the Plaintiff and the funds heretofore paid into Court and to be paid into Court in the sum of Twenty-one Thousand One Hundred Seventy-six Dollars and Twenty-nine Cents ($21,176.29).

V.

IT IS FURTHER ORDERED AND ADJUDGED that judgment be entered herein for Craig W. Hoster, guardian ad litem for Defendant Rhonda Michelle Foster, a minor, in the sum of Five Thousand Dollars ($5,000.00) from the funds heretofore paid into Court, and to be paid into Court by Plaintiff which the Court specifically finds to be reasonable and necessary compensation for legal services in the amount of $4,895.08 and expenses in the amount of $104.92 rendered on behalf of said minor Defendant.

VI.

IT IS FURTHER ORDERED AND ADJUDGED that judgment be entered herein for Plaintiff and against Robin Gay Foster Sellers in her representative capacity as Administratrix of the Estate of Robert E. Foster, deceased, Michael Dean Cook a/k/a Michael Dean Foster and Mitchel Lee Cook a/k/a Mitchel Lee Foster that they have and take nothing by these proceedings.

VII.

IT IS FURTHER ORDERED AND ADJUDGED that all counter-claims and cross-claims inconsistent with the judgments herein be and same are hereby dismissed with prejudice.

VIII.

The Court specifically finds that this settlement and the distribution of the proceeds thereof between the parties is just, fair and equitable.

IX.

The Court specifically finds that Defendant Rhonda Michelle Foster is a minor, eleven years of age born on the 7th day of July, 1971; that she is a citizen and resident of the State of Arkansas now residing at Route 4, Box 357C, Harrison, Arkansas 72601; that heretofore on the 12th day of June, 1981, Ester Baldridge, maternal grandmother, has heretofore been appointed as guardian of the person and of the estate of Rhonda Michelle Foster in the Probate Court of Boone County, Arkansas in Cause No. 71-68; that pursuant to the provisions of Title 12 O.S., 1981 §84, it is not necessary to establish a trust at a bank in Oklahoma; that the settlement contained herein is fair, just and reasonable for Rhonda Michelle Foster and that Craig W. Hoster, guardian ad litem for Rhonda Michelle Foster, should be and is hereby authorized to accept said settlement on behalf of Rhonda Michelle Foster.

X.

IT IS FURTHER ORDERED AND ADJUDGED that Jack C. Silver, Clerk of the District Court for the Northern District of Oklahoma

is hereby authorized and directed to issue payment to Sandra Lee Foster Hudson and Palmer & Caslavka, Inc., her attorneys, in the sum of Fourteen Thousand Five Hundred Eighty-three Dollars and Thirty-three Cents ($14,583.33).

XI.

IT IS FURTHER ORDERED AND ADJUDGED that Jack C. Silver, Clerk of the District Court for the Northern District of Oklahoma is hereby authorized and directed to issue payment to Robin Gay Foster Sellers and Dana L. Lyons, her attorney, in the sum of Eight Thousand Seven Hundred Fifty Dollars ($8,750.00).

XII.

IT IS FURTHER ORDERED AND ADJUDGED that Jack C. Silver, Clerk of the District Court for the Northern District of Oklahoma is hereby authorized and directed to issue payment to Ester Baldridge, guardian of the person and of the estate of Rhonda Michelle Foster, a minor, in the Probate Court of Boone County, Arkansas in Cause No. 71-68 in the sum of Twenty-one Thousand One Hundred Seventy-six Dollars and Twenty-nine Cents ($21,176.29).

XIII.

IT IS FURTHER ORDERED AND ADJUDGED that Jack C. Silver, Clerk of the United States District Court for the Northern District of Oklahoma is hereby authorized and directed to issue payment to Craig W. Hoster, guardian ad litem for Rhonda Michelle Foster, a minor, in the sum of Five Thousand Dollars ($5,000.00), for his fees and expenses for serving as guardian ad litem.

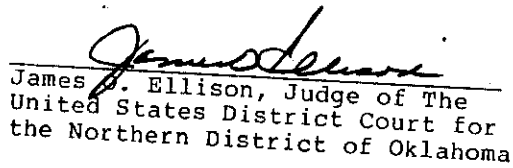
XIV.

IT IS FURTHER ORDERED AND ADJUDGED that the defendants and each of them, their agents, attorneys, representatives, successors and assigns, and all persons claiming by, through or under them, or any of them, should be and are hereby permanently enjoined and restrained from instituting or further prosecuting any suit or proceeding or any action or actions in any state court or any other federal court on account of Policy No. 126042 or the money payable thereunder.

XV.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff should be and is hereby determined to be discharged in full from any and all liability under Policy No. 126042 issued on the life of Robert E. Foster, deceased.

Dated this 28th day of September, 1982.



James O. Ellison, Judge of The United States District Court for the Northern District of Oklahoma

APPROVED AS TO FORM:

CROWE & DUNLEVY

Jim K. Goodman

Jim K. Goodman, Attorney for Plaintiff, Western Farm Bureau Life Insurance Company

PALMER & CASLAVKA, INC.

Thomas L. Palmer

Thomas L. Palmer, Attorney for Sandra Lee Foster Hudson and for Ester Baldridge, guardian of the estates of Michael Dean Cook, Mitchel Lee Cook and Rhonda Michelle Foster, minors

LAWRENCE, SCOTT & LAMB

LYONS & LYONS

Dana L. Lyons, Attorney for Robin Gay Foster Sellers, individualy and as administratrix of the estate of Robert E. Foster, deceased

Craig W. Hoster

Craig W. Hoster, guardian ad litem for Rhonda Michelle Foster, a minor

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
IN OPEN COURT
SEP 27 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

CARL L. BIGLER, receiver for BOLLINGER CORPORATION, in proceedings for an arrangement under Chapter XI,

Plaintiff,

vs.

THOMAS L. HELTON, LORNA F. HELTON, LUTHER M. McMATH, JOYCE M. McMATH, KELLYVILLE FABRICATORS, INC., a corporation, ROBER L. LAWMASTER, JAMES W. REEL, QUAKER LIFE INSURANCE COMPANY, a corporation, OKLAHOMA NATURAL GAS COMPANY OF DELAWARE, a corporation, and CHASE MANHATTAN NATIONAL BANK, a corporation,

Defendants.

No. 76-C-485-B

JUDGMENT

The above entitled cuase came on for trial for this the 27th day of September, 1982, and the Court having heard the evidence and having examined the pleadings and service of summons and complaint finds that the following named defendants to-wit: Thomas L. Helton, Lorna F. Helton, Luther M. McMath, Joyce M. McMath, Roger Lawmaster, Oklahoma Natural Gas Company of Delaware, a corporation, and Chase Manhattan National Bank, a corporation, have been duly and legally served with summons; that none of said defendants have entered an appearance herein and none of them have filed any answer or pleading herein, that the time within which they are required by law and by the summons so served on them to appear and plead or answer to the complaint has expired and that the default of said defendants should be entered against them.

1. And further finds: That Defendants Thomas L. Helton and Luther McMath were on March 15, 1976 (when they executed the mortgage attached as Exhibit F to the complaint) and still are the record owners of an individed 2/5 interest in and to the lands described in said mortgage; and that said interest in said lands is not a part of the bankrupt estate of the defendant Kellyville Fabricators, Inc. involved in the bankruptcy proceedings of said Company now pending as Case No. 77-B-115 in the

LAW OFFICES
UNGERMAN, CONNER & LITTLE
MIDWAY BLDG.
2727 EAST 21 ST.
SUITE 400
P. O. BOX 2099
TULSA, OKLAHOMA
74101

Northern District of Oklahoma.

2. That the defendant Kellyville Fabricators, Inc., an Oklahoma corporation, has appeared herein and filed its answer denying the allegations of plaintiff's complaint and alleging that neither Thomas L. Helton or Luther McMath had any authority to encumber its property for the personal obligations. Since the filing of said answer said defendant was adjudicated a bankrupt in bankruptcy proceedings pending in this district as bankruptcy No. 77-B-115 and that the trustee in bankruptcy for said defendant has made no claim herein on behalf of the bankrupt estate of said defendant to the record interest of the defendants Thomas L. Helton, Lorna F. Helton, Luther McMath and Joyce M. McMath in the real property involved herein which said defendants mortgaged to Bollinger Corporation (Plaintiff's Exhibit F to the Complaint).

3. That, with respect to Plaintiff's First Cause of Action the defendants Thomas L. Helton, Lorna F. Helton, Luther M. McMath and Joyce M. McMath and each of them are indebted to plaintiff in the amount of $21,938.08 together with interest thereon at the rate of 10% per annum from the 10th day of June, 1976 together with the further sum of $2,500.00 as attorney's fees as provided in the promisory note of said defendants, a true copy of which is attached to plaintiff's complaint as Exhibit C.

4. That, with respect to Plaintiff's second Cause of Action, the personal property referred to therein is the subject of an adversary proceeding in the bankruptcy case involving the defendant Kellyville Fabricators, Inc., the purpose of which is to determine the matter of priority between the plaintiff's security interest and that of the Security Bank and Trust Company of Ponca City, Oklahoma. The Court further finds that since the question of priority of plaintiff's claim is involved in said bankruptcy proceeding and will be determined by the Bankruptcy Court finds that plaintiff's request that its Second Cause of Action be dismissed without prejudice should be granted.

5. That, with respect to Plaintiff's Third Cause of Action, (wherein Plaintiff seeks to foreclose its second mortgage given to secure the indebtedness, which is the subject of Plaintiff's First Cause of Action) the Court finds that said mortgage is valid and subsisting and is a lien on the undivided 2/5 interest

LAW OFFICES
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TULSA, OKLAHOMA
74101

of the defendants, Thomas L. Helton, Lorna F. Helton, Luther M. McMath and Joyce M. McMath in and to the hereinafter described real property subject only to the first mortgage of Quaker Life Insurance Company covering a 100% interest in said property on which first mortgage there presently is a balance payable on the indebtedness secured thereby in the amount of $21,473.11 from November 17, together with interest thereon at the rate of 10 % per annum that said defendant Quaker Life Insurance Company has filed herein a pleading setting up its mortgage and its priority but that said defendant has not sought any relief in this cause other than to have the priority of its mortgage determined.

6. That the defendants Thomas L. Helton, Lorna F. Helton, Luther M. McMath and Joyce M. McMath and each of them have made default in the performance of the terms and conditions of said note and mortgage, as alleged in plaintiff's complaint and that plaintiff is entitled to foreclosure of its mortgage sued upon in this cause against all of the defendants herein but subject to the first mortgage of Quaker Life Insurance Company.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT:

(1) That plaintiff's second cause of action be and same hereby is dismissed without prejudice;

(2) That plaintiff have judgment against the defendants Thomas L. Helton, Lorna F. Helton, Luther M. McMath and Joyce M. McMath and each of them for the sum of $21,938.08 together with interest thereon at the rate of 10% per annum from the 10th day of June, 1976 until paid and the further sum of $2,500.00 attorney's fees, and for all costs of this action, and that said amounts are secured by the plaintiff's aforesaid mortgage and constitutes a prior and superior lien upon the undivided 2/5 interest of said defendants in and to the real estate and premises located in Creek County, Oklahoma described as follows:

> A tract of land situated in the SE/4 of Sec. 22 T17N, R10E, described as that part of the east half of the SE/4 lying South of the St. Louis & San Francisco Railroad Company's railroad right-of-way and west of a line beginning at a point 2459.2 feet north of the southeast corner of the SE/4 of said Sec. 22, thence extending in a southwesterly direction,

LAW OFFICES
UNGERMAN, CONNER & LITTLE
MIDWAY BLDG.
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SUITE 400
P. O. BOX 2099
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parallel to and 30 feet distance from the St. Louis & San Francisco Railway Company's railroad right-of-way, a distance of 1,917.17 feet; thence south 959.2 feet and ending at a point on the section line between section 22 and 27, which point is 1,278.85 feet west of the southeast corner of the SE/4 of Sec. 22.

Also, a tract of land situated in the SE/4 of Sec. 22, T17N, R10E, described as beginning at a point 1,278.85 feet west and 325 feet north of the southeast corner of said Sec. 22, thence north 640.6 feet to a point 83 feet perpendicular to the center line of St. Louis & San Francisco right-of-way; thence north 40° 36' east parallel and 83' from said center line to said railroad 351.17'; thence south 14° 26' west, 938' to point of beginning containing 1.71 acres, more or less.

Also, a tract of land situated in the SE/4 of Sec. 22, T17N, R10E, described as that part of the west half of the SE/4 lying east and south of the St. Louis and San Francisco Railroad right-of-way EXCEPT, a tract beginning at a point 1.806' west and 25' north of the south-east corner of said Sec. 22; thence west 440.10 feet; thence north 45° 46' 30" east, a distance of 557.25 feet; thence south 5° 46' 30" east a distance of 557.25 feet; thence south 5° 59' 18" east a distance of 390.80 feet to the point of beginning, containing 1.96 acres, more or less.

LESS AND EXCEPT all oil, gas and other mineral rights in, to and under the above described property together with the right to explore for, mine, produce and remove the same from the said premises and, easements and rights-of-way of record.

subject only to the first and prior mortgage, hereinabove referred to, of Quaker Life Insurance Company and, that any and all rights, title or interest which the defendants Thomas L. Helton, Lorna F. Helton, Luther M. McMath, Joyce M. McMath, Kellyville Fabricators, Inc. Robert L. Lawmaster, Oklahoma Natural Gas Company of Delaware and Chase Manhattan National Bank or any or either of them or claim to have in and to said 2/5 undivided interest of the Helton and McMath defendants in and to said real estate and premises is subject, junior and inferior to the mortgage lien of plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the mortgage and lien of the plaintiff, in the amounts hereinabove found and adjudged, be foreclosed, and upon praecipe being filed, a special execution and order of sale issue in the cause out of the office of the court clerk, directed to the United States Marshall to levy upon, advertise and sell after due and legal appraisement, the undivided 2/5 interest of said defendants, Thomas L. Helton, Lorna F. Helton, Luther M. McMath, and Joyce M.

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McMath real estate and premises herinabove described, subject to the first mortgage of defendant, Quaker Life Insurance Company and subject to unpaid taxes, if any, and pay the proceeds of sale to the clerk of this Court as provided for by law for application as follows:

First: To the payment of the costs herein accrued and accruing.

Second: To the payment of the judgment and lien of the plaintiff in the amounts herein set out.

Third: The balance, if any, to be paid to the clerk of this Court to await the further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon confirmation of said sale, the defendants Thomas L. Helton, Lorna F. Helton, Luther M. McMath, Joyce M. McMath, Roger L. Lawmaster, Oklahoma Natural Gas Company of Delaware, a corporation, and Chase Manhattan National Bank, a corporation, and each of them be forever barred, foreclosed and enjoined from asserting any right, title and interest estate or equity of redemption in and to said undivided 2/5 interest in said real estate and premises or any part thereof.

JUDGE

Approved:

UNGERMAN, CONNER & LITTLE

By Bryan Callihan & Hardy C. Kerr
Attorneys for Plaintiff

Gordon Patten, Attorney for
Quaker Life Insurance Company

Kenneth Stainer, Attorney for
Ollie Gresham, Trustee in
Bankruptcy for Kellyville
Fabricators, Inc.

Mike Jones, Attorney for
Kellyville Fabricators, Inc.

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2727 EAST 21 ST.
SUITE 400

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TULSA, OKLAHOMA
74101

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff, vs. KENNETH E. VANSILL, Defendant.	))))))))	CIVIL ACTION NO.82-C-435-C

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Don J. Guy, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 27th day of September, 1982.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Don J. Guy

DON J. GUY
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties [illegible] by mailing the same to them or their [illegible] of record on the 27th day of September, 1982.

Don J. Guy

FILED

SEP 24 1982

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 81-C-796-B
JERRY D. JONES,	)	
Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 23rd day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Don J. Guy, Assistant United States Attorney, and the Defendant, Jerry D. Jones, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Jerry D. Jones, was personally served with Summons and Complaint on August 5, 1982. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of $582.00, plus 15% interest from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Jerry D. Jones, in the amount of $582.00, plus 15% interest from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

DON J. GUY
Assistant U.S. Attorney

JERRY D. JONES

IN THE UNITED STATES DISTRICT COURT FOR THE

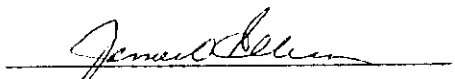
NORHTERN DISTRICT OF OKLAHOMA

CHAMPLIN PETROLEUM COMPANY, a Delaware corporation, Plaintiff,	)	FILED SEP 23 1982 Jack C. Silver, Clerk U. S. DISTRICT COURT
v.	)	
AAA OIL COMPANY, INC., an Oklahoma corporation, DONALD F. KIRKLAND, MARY E, KIRKLAND, HAROLD BURLINGAME & BARBARA JEAN BURLINGAME, Defendants,	)	
and	)	
DONALD F. KIRKLAND, Defendant/Third Party Plaintiff,	)	
v.	)	
RONALD L. MITCHELL, JERRY GILLELAND & ELMER GILLELAND, Third Party Defendants.	)	No. 81-C-643-E

ORDER OF DISMISSAL WITH PREJUDICE

NOW on this 23d day of September, 1982, the above styled numbered cause comes for consideration by the Court upon the Joint Stipulation for Dismissal filed herein by Champlin Petroleum Company, Inc., AAA Oil Company, Inc., Donald F. Kirkland, Mary E. Kirkland, Ronald L. Mitchell, Jerry Gilleland and Elmer Gilleland. The Court, having examined the Joint Stipulation for Dismissal, finds that the plaintiffs, defendants and third party defendants have entered into a compromise agreement for settlement of the claims set forth in the Complaint filed by the plaintiff in the third party complaint filed by the defendant Donald F. Kirkland and causes of action set forth therein should be dismissed with prejudice pursuant to the Joint Stipulation for Dismissal.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the causes of action filed by the plaintiff, Champlin Petroleum Company, Inc. and the third party complaint filed by the defendant, Donald F. Kirkland, be and the same are hereby dismissed with prejudice as to future filing.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 2 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

RANDALL TAYLOR and LINDA TAYLOR,

Plaintiffs,

vs.

WAL-MART STORES, INC., a foreign corporation, et al.,

Defendants.

No. 81-C-891-E

ORDER

The Court has now before it the Motion of the Plaintiffs to remand this proceeding to the District Court of Creek County, Oklahoma. Defendants in this action have responded in opposition to the Plaintiffs' motion to remand, and the motion is now at issue before this Court.

On December 22, 1981, the Defendant Brookfield Athletic Shoe Company, Inc. filed notice, petition and bond for removal of this action from Creek County, Oklahoma District Court. On January 6, 1982, Defendant Brookfield was joined by the Defendant Wal-Mart Stores, Inc. in filing an amended notice, petition and bond for removal of the action to this Court.

On January 26, 1982, the Plaintiff filed a Motion to Amend Complaint (formerly Petition) for the purpose of adding Robert Dunn as a party Defendant. The Defendants, already parties to the action, failed to respond or object to the Plaintiffs' Motion to Amend, and on February 25, 1982, this Court granted leave to the Plaintiffs to amend their complaint adding Robert Dunn as a party Defendant. Defendants now assert their objection to the joinder of Dunn and ask the Court to reconsider its Order of February 25, 1982, granting leave to the Plaintiffs to so add Dunn by amending their complaint.

The second question before the Court is the Plaintiffs' Motion to Remand, filed March 26, 1982. Defendants object to the Plaintiffs' Motion and urge that the above styled action remain undisturbed in the jurisdiction of this Court.

Defendants assert the Plaintiffs' motive in amending their complaint to add Robert Dunn was solely to destroy diversity in this action and defeat the jurisdiction of this Court. Such allegations,

absent a showing of fraud, are not proper factors for the Court to include in its consideration of Plaintiffs' Motion to Remand.

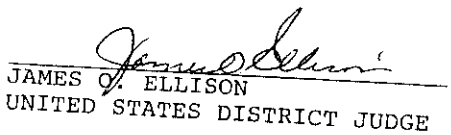
It is well settled that in cases where Federal jurisdiction is based, upon removal, on diversity of parties pursuant to 28 U.S.C. § 1332, jurisdiction will not continue when such diversity is destroyed. Rowland v. Sellers, 111 F.Supp. 5 (E.D. Tenn. 1953); Heintz v. Ohio Casualty Insurance Company, 112 F.Supp. 199 (S.D. Cal. 1953). Barrett v. McDonald's of Oklahoma City, 419 F.Supp. 792 (W.D. Okl. 1976) is distinguishable on its facts from the case at bar. In Barrett, the jurisdiction of the Federal Court was not entirely dependent upon diversity of the parties. The Court could have exercised original jurisdiction over the action under the provisions of the Fair Labor Standards Act of 1938, §§ 1 et seq., 16(b), 29 U.S.C. §§ 201 et seq., 216(b). Here, the jurisdiction of this Court over the instant action is entirely dependent on compliance with 28 U.S.C. § 1332. The addition of Robert Dunn as a party Defendant destroys the requisite diversity and thereby, the jurisdiction of this Court. In addition, the Defendants in this action had ample opportunity to object to the joinder of Dunn as a party. In light of Defendants' failure to make a timely objection, they are now estopped from objecting to the remand of the action for lack of diversity.

After reviewing the file to date in this action, and in light of the foregoing statements of the Court;

IT IS THEREFORE THE ORDER OF THIS COURT, that the motion of the Defendants for reconsideration of the Court's February 25, 1982 Order is hereby denied.

IT IS FURTHER ORDERED, that the above styled action be remanded to the District Court of Creek County, Drumright Division, State of Oklahoma for resolution and disposition.

Dated at Tulsa, Oklahoma this 23rd day of September, 1982.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

SEP 24 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-749-B
JIMMY W. BOULWARE,	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 23rd day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Jimmy W. Boulware, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Jimmy W. Boulware, was personally served with Summons and Complaint on August 19, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, August 19, 1982, for the principal sum of $1,752.00, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

SEP 24 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	
FLYNN P. DOCKERY, Defendant.	)	CIVIL ACTION NO. 82-C-748-B

DEFAULT JUDGMENT

This matter comes on for consideration this 23rd day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Flynn P. Dockery, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Flynn P. Dockery, was personally served with Summons and Complaint on August 13, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Flynn P. Dockery, for the principal sum of $602.10, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-775-E
MICHAEL A. GRUTTADAURIA, JR., Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this _____ day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Michael A. Gruttadauria, Jr., appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Michael A. Gruttadauria, Jr., was personally served with Summons and Complaint on August 23, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Michael A. Gruttadauria, Jr., for the principal sum of $415.31, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

FILED

SEP 24 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

WILLIE WOLFE,	)	
Plaintiff,	)	
vs.	)	Case No. 82-C-564-E
TERRY McBRIDE, CARROL WOLFE and MIKE HICKS,	)	
Defendants.	)	

NOTICE OF DISMISSAL

COMES NOW the Plaintiff, Willie Wolfe, and pursuant to the Federal Rules of Civil Procedure, Rule 41(a)(1), and hereby gives notice of the voluntary dismissal by said Plaintiff, of this action against all Defendants.

This Notice is filed prior to the service by any of the Defendants of an Answer or of a Motion for Summary Judgment.

With the filing of this Notice, this action is hereby dismissed by the Plaintiff without Order of the Court.

Willie Wolfe
Willie Wolfe, Plaintiff

STATE OF OKLAHOMA)
) ss.
COUNTY OF CRAIG)

Be it remembered, that on this 23rd day of September, 1982, before me a Notary Public in and for said State, personally appeared WILLIE WOLFE, to me known to be the identical person described in and who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my official signature and affixed my notarial seal, the day and year first above written.

Patsy Nelson
Notary Public

My commission expires:
9-18-86

FILED

SEP 24 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OKLAHOMA

JAMES ZERILLO, Plaintiff,	:	
-against-	:	82 C-764-~~B~~E and 82 C-789-E (removed by defendants from District Court, County of Tulsa, Oklahoma)
GULF OIL CORPORATION, GOC ACQUISITION CORPORATION, JAMES E. LEE and EDWARD B. WALKER, Defendants.	:	

STIPULATION

MARVIN FISCHER, Plaintiff,	:	
-against-	:	82 C-778-E and 82 C-790-~~B~~E (removed by defendants from District Court, County of Tulsa, Oklahoma)
GULF OIL CORPORATION, GOC ACQUISITION CORPORATION, JAMES E. LEE and EDWARD B. WALKER, Defendants.	:	

----------x

IRVIN KAS, individually and as representative of shareholders of CITIES SERVICE COMPANY, :

Plaintiff, :

-against- : 82 C-777-E

GULF OIL CORPORATION, GOC ACQUISITION CORPORATION, JAMES E. LEE and EDWARD B. WALKER, :

Defendants. :

----------x

----------x

HERBERT W. and HAZEL R. HARTZ, individually and as representative of shareholders of CITIES SERVICE COMPANY, :

Plaintiffs, :

-against- : 82 C-785-E

GULF OIL CORPORATION, GOC ACQUISITION CORPORATION, JAMES E. LEE and EDWARD B. WALKER, :

Defendants. :

----------x

----------x

JEROME F. and GLORIA M. KENNEY, :

Plaintiffs, :

-against- : 82 C-793-C and 82 C-810-E (removed by defendants from District Court, County of Tulsa, Oklahoma)

GULF OIL CORPORATION, GOC ACQUISITION CORPORATION, JAMES E. LEE and EDWARD B. WALKER, :

Defendants. :

----------x

WHEREAS, the parties have agreed to move for the transfer pursuant to 28 U.S.C. §1404 of the captioned actions now pending in the U.S. District Court for the Western District of Pennsylvania and in the U.S. District Court for the Northern District of Oklahoma to the U.S. District Court for the Southern District of New York; and

WHEREAS, upon consummation of said transfers, a motion will be made to file a consolidated complaint in the aforesaid actions now pending in the U.S. District Court for the Western District of Pennsylvania and in the U.S. District Court for the Northern District of Oklahoma and in the related actions in the U.S. District Court for the Southern District of New York,

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED BETWEEN the parties as follows:

1. Defendants' time to answer or move with respect to the complaints in any and all of the aforesaid actions shall be extended to thirty (30) days after filing of the consolidated complaint in the U.S. District Court for the Southern District of New York.

2. In the event either the 28 U.S.C. §1404 transfer motions or the motion to file a consolidated complaint are denied, then defendants' time to answer or move in any and all of the above actions (including all related actions pending in the U.S. District Court for the Southern District of New York) shall be extended to thirty (30) days following the denial of said motion.

Dated: September 24, 1982

Attorneys for Plaintiff,
JAMES ZERILLO

Attorneys for Plaintiff,
MARVIN FISCHER

Attorneys for Plaintiff,
IRVIN KAS

Attorneys for Plaintiffs,
HERBERT W. and HAZEL R. HARTZ

Attorneys for Plaintiffs,
JEROME F. and GLORIA M. KENNEY

Attorneys for Defendants

SO ORDERED:

U.S.D.J.

Chief U.S.D.J.

FILED

SEP 23 1982

Jack C. Silver, Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MASTER MECHANICS, INC., Plaintiff,	)	
vs.	)	82-C-536-BT
OILMAN MANUFACTURING, INC., and METRO MANUFACTURING, INC., Defendants.	)	

J U D G M E N T

Based on the Findings of Fact and Conclusions of Law filed this date, IT IS ORDERED Judgment be entered in favor of the plaintiff, Master Mechanics, Inc., and against the defendant, Metro Manufacturing, Inc., in the amount of $139,931.17, plus interest at the rate of 6% per annum from August 1, 1981, to September 21, 1982, and at the rate of 15% per annum from the date of Judgment until paid, and attorney fees in the amount of $2,400.00 and costs in the amount of $90.00 to be taxed as costs against Metro Manufacturing, Inc.

ENTERED this 23rd day of September, 1982.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

JUDGMENT ON JURY VERDICT

CIV 31 (7-83)

United States District Court

FOR THE

NORTHERN DISTRICT OF OKLAHOMA

SEP 22 1982

JACK C. SILVER, Clerk
U. S. DISTRICT COURT

SAMMIE C. REVIS,

Plaintiff,

vs.

ERNIE TIGER, ROGER MINER, and THE CITY OF GLENPOOL,

Defendants,

CIVIL ACTION FILE NO. 82-C-319-BT

JUDGMENT

This action came on for trial before the Court and a jury, Honorable THOMAS R. BRETT, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict,

It is Ordered and Adjudged that judgment is entered for the Defendants, Ernie Tiger, Roger Miner and The City of Glenpool, and against the Plaintiff, Sammie C. Revis, and that the Defendants recover of the Plaintiff its costs of action.

Dated at Tulsa, Oklahoma, this 22nd day of September, 1982.

Thomas R. Brett

~~Clerk of Court~~

THOMAS R. BRETT
U. S. District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 21 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA and FRANK M. LIMBIRD, Special Agent, Internal Revenue Service,	)	
Petitioners,	)	
vs.	)	CIVIL ACTION NO. 79-C-355-C
FIRST STATE BANK AND TRUST COMPANY, Pittsburg, Kansas,	)	
Respondent.	)	

ORDER DISCHARGING RESPONDENT AND DISMISSAL

ON THIS 20th day of September, 1982, Petitioners' Motion to Discharge Respondent and to Dismiss came on for decision and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served on them in this case, that further proceedings herein are unnecessary, and that the Respondent, First State Bank and Trust Company, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, First State Bank and Trust Company, be and it is hereby discharged from any further proceedings herein and this action be and the same hereby is dismissed.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 2 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA and FRANK M. LIMBIRD, Special Agent, Internal Revenue Service,	)	
Petitioners,	)	
vs.	)	CIVIL ACTION NO. 79-C-190-C
SECURITY BANK AND TRUST COMPANY, Miami, Oklahoma,	)	
Respondent.	)	

ORDER DISCHARGING RESPONDENT AND DISMISSAL

ON THIS 20th day of September, 1982, Petitioners' Motion to Discharge Respondent and to Dismiss came on for decision and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served January 10, 1979, that further proceedings herein are unnecessary, and that the Respondent, Security Bank and Trust Company, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Security State Bank and Trust Company, be and it is hereby discharged from any further proceedings herein and this action be and the same hereby is dismissed.

UNITED STATES DISTRICT JUDGE

41

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 21 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

EMPIRE INDEMNITY INSURANCE COMPANY,	)	
Plaintiff,	)	
-vs-	)	
MOSELLE ELLIOTT, ET AL,	)	
Defendants.	)	No. 82-C-166-E

ORDER

NOW on this 21st day of September, 1982, the above-captioned matter comes on before the undersigned Judge of the United States District Court for the Northern District of Oklahoma upon plaintiff's application for an order discharging it from this cause as well as releasing it from any further liability. The Court finds that on August 25, 1982, plaintiff deposited One Hundred Thousand and No/100 Dollars ($100,000.00) with the Clerk of the Northern District of Oklahoma and that said amount is the total liability limits of said insurance policy issued by plaintiff to Charles Howe d/b/a Howe Engineering, Consulting and Renovation and by reason thereof the Court finds that plaintiff's application should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that plaintiff be discharged from this cause and that it further be released from any liability pursuant to insurance policy issued by the plaintiff to Charles Howe d/b/a Howe Engineering, Consulting and Renovation.

James O. Ellison
JUDGE OF THE DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ENERGY CATALYST CO.,	)	
Plaintiff,	)	
vs.	)	82-C-496-BT
CARL W. MARTIN,	)	
Defendant.	)	

FILED

SEP 21 1982

Jack C. Silver, Clerk
U.S. DISTRICT COURT

J U D G M E N T

Based on the Findings of Fact and Conclusions of Law filed this date, IT IS ORDERED Judgment be entered in favor of the plaintiff, Energy Catalyst Co., and against the defendant, Carl W. Martin, in the amount of $27,500.00, together with interest from July 17, 1981, at the rate of 6% per annum, and interest at the rate of 15% per annum from the date of Judgment until paid, in accordance with 12 O.S. (1982) §727.

ENTERED this 21st day of September, 1982.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff, vs. TOMMY LEE EDMONSON, Defendant.	)	CIVIL ACTION NO. 82-C-526-C

O R D E R

For good cause having been shown, it is hereby ordered, adjudged and decreed that the above-referenced action is hereby dismissed without prejudice.

Dated this 21st day of September, 1982.

/s/ H. Dale Cook
UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 81-C-715-B
DAVID L. BAILEY, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 16 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, David L. Bailey, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, David L. Bailey, was personally served with an Alias Summons and Complaint on August 6, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, David L. Bailey, for the principal sum of $976.50, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-584-B
JOHN R. CARLSON,	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 16 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds, Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, John R. Carlson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, John R. Carlson, was personally served with Summons and Complaint on June 28, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, John R. Carlson, for the principal sum of $538.20, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

FILED

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-341-B
JAN C. KILLOUGH and VERNA S. KILLOUGH, Defendants.	)	

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 16th day of September, 1982. The Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, and the Defendants, Jan C. Killough and Verna S. Killough, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Jan C. Killough and Verna S. Killough were served by publication as shown on Proof of Publication filed herein.

It appears that the Defendants, Jan C. Killough and Verna S. Killough, have failed to answer and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and for a foreclosure of a real property mortgage securing said mortgage note upon the following described real property located in Craig County, Oklahoma, within the Northern Judicial District of Oklahoma:

> South 19.96 acres of Lot 2 and all of Lots 3 and 4 in Section 30, Township 25 North, Range 20 East, Craig County Oklahoma.

THAT the Defendants, Jan C. Killough and Verna S. Killough, did, on the 12th day of June, 1980, execute and deliver to the United States of America, acting through the Farmers Home Administration, their mortgage and mortgage note in the sum of $175,000.00 with twelve percent (12%) interest per annum, and

further providing for the payment of annual installments of principal and interest.

The Court further finds that Defendants, Jan C. Killough and Verna S. Killough, made default under the terms of the aforesaid mortgage note by reason of their failure to make annual installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of $175,657.56 as unpaid principal, plus accrued interest of $39,582.69 as of April 30, 1982, plus interest thereafter at the rate of $57.7504 per day, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, Jan C. Killough and Verna S. Killough, for the principal sum of $175,657.56, plus accrued interest of $39,582.69 as of April 30, 1982 plus interest thereafter at the rate of $57.7504 per day, until paid, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the mortgage and lien of the Plaintiff herein be adjudged foreclosed and that upon the failure of said Defendants, Jan C. Killough and Verna S. Killough, to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint herein are

forever barred and foreclosed of any right, title, interest or claim to the real property or any part thereof.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

EUGENE I. ROBERTS, #78009, Plaintiff,	)	
vs.	)	No. 82-C-840-E
BOYLE-MIDWAY DIVISION, AMERICAN HOUSE PRODUCTS, A corporation, A Foreign corporation, et al., Defendants.	)	

FILED

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

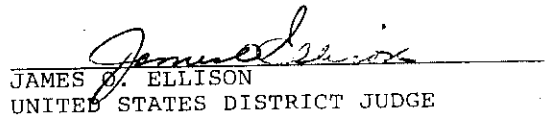
O R D E R

The Court has now before it the Complaint of the Plaintiff, Eugene I. Roberts, #78009 filed with leave of the Court in the above styled civil action.

The Court has reviewed the content and allegations of the Plaintiff's Complaint and finds that it fails to state a proper cause of action under 42 U.S.C. §1983. Plaintiff's action appears to be a private action under the theory of manufacturer's product liability, and contains no requisite allegations of deprivation of civil rights for which remedies would be available under 42 U.S.C. §1983. The pleading and the action it purports to initiate are inappropriate and are not subject to cure by amendment.

IT IS THEREFORE THE ORDER OF THIS COURT, that the Complaint of the Plaintiff in the above styled action is fatally defective and should be, and hereby is, DISMISSED.

Dated at Tulsa, Oklahoma this 16th day of September, 1982.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MICHAEL DON SMITH #81993, Petitioner, vs. TIM WEST, Warden, Conner Correctional Center, and THE ATTORNEY GENERAL OF THE STATE OF OKLAHOMA, Respondents.	)	No. 82-C-844-E

FILED
SEP 16 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER TO TRANSFER CAUSE

The Court having examined the Petition for Writ of Habeas Corpus which the Petitioner has been permitted only to file without prepayment of fees or costs, finds:

1. That the Petitioner is presently a prisoner in the custody of the Respondents at the Conner Correctional Center, Hominy, Oklahoma.

2. That the Petitioner demands his release from such custody and as grounds therefor alleges he is being deprived of his liberty in violation of rights under the Constitution of the United States after having exhausted all remedies afforded by the courts of the State of Oklahoma.

3. That the court which imposed the sentence on the Petitioner under attack was the District Court of Oklahoma County, Oklahoma which is located within the territorial jurisdiction of the Western District of Oklahoma and it appearing that the trial court records and any persons who may be called as witnesses in the event of an evidentiary hearing are more conveniently available in the Western District of Oklahoma.

4. In the furtherance of justice this case should be transferred to the United States District Court for the Western District of Oklahoma.

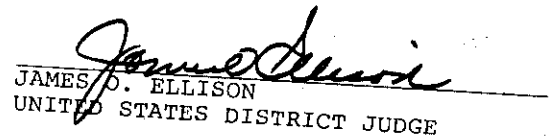
IT IS THEREFORE ORDERED:

1. Pursuant to the authority contained in 28 U.S.C. § 2241(d) and in the exercise of the Court discretion this cause is hereby transferred to the United States District Court for the Western District of Oklahoma for all further proceedings.

2. The Clerk of this Court shall mail a copy of this Order

to the Petitioner.

Dated this 16TH day of September, 1982.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

VERNON RAY HALL #87309, Petitioner,	)	
vs.	)	No. 82-C-830-E
TIM WEST, Warden, Conner Correctional Center, and THE STATE OF OKLAHOMA, Respondents.	)	

FILED
SEP 10 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER TO TRANSFER CAUSE

The Court having examined the Petition for Writ of Habeas Corpus which the Petitioner has been permitted only to file without prepayment of fees or costs, finds:

1. That the Petitioner is presently a prisoner in the custody of the Respondents at the Conner Correctional Center, Hominy, Oklahoma.

2. That the Petitioner demands his release from such custody and as grounds therefor alleges he is being deprived of his liberty in violation of rights under the Constitution of the United States after having exhausted all remedies afforded by the courts of the State of Oklahoma.

3. That the court which imposed the sentence on the Petitioner under attack was the District Court of Oklahoma County, Oklahoma which is located within the territorial jurisdiction of the Western District of Oklahoma and it appearing that the trial court records and any persons who may be called as witnesses in the event of an evidentiary hearing are more conveniently available in the Western District of Oklahoma.

4. In the furtherance of justice this case should be transferred to the United States District Court for the Western District of Oklahoma.

IT IS THEREFORE ORDERED:

1. Pursuant to the authority contained in 28 U.S.C. § 2241(d) and in the exercise of the Court discretion this cause is hereby transferred to the United States District Court for the Western District of Oklahoma for all further proceedings.

2. The Clerk of this Court shall mail a copy of this Order

to the Petitioner.

Dated this 16th day of September, 1982.

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR

THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

THE BOARD OF TRUSTEES OF THE PIPELINE INDUSTRY BENEFIT FUND, 4845 South 83 East Avenue, Tulsa, Oklahoma 74145,	)	
Plaintiff,	)	
vs.	)	No. 82-C-652-E
SOUTHERN OILFIELD SERVICE, LTD., P. O. Box 1233, Sidney, Montana 59270,	)	
Defendant.	)	

JUDGMENT BY DEFAULT

This matter comes on before me, the undersigned Judge, for hearing this 16 day of September, 1982, upon plaintiff's Motion for Default Judgment filed herein, upon the grounds that the defendant has failed to answer or otherwise plead to the Amended Complaint filed herein, as required by law.

The Court finds that plaintiff advised defendant's counsel by telephone that said Amended Complaint was being filed on the 11th day of August, 1982; that defendant mailed a copy of said Amended Complaint to defendant's counsel on the 11th day of August, 1982, with a period of time of 29 days having elapsed since said mailing, the same being in excess of the time in which defendant was required by law to answer; and that defendant is wholly in default herein, and that the plaintiff should have judgment as prayed for in its Amended Complaint filed herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff be, and is hereby, awarded a judgment of and from said defendant in the principal sum of $3,946.43, together with interest thereon at the rate of 10% per annum from the date of judgment until paid in full, plus an attorney's fee in the amount of $500.00, and the costs of this action that have accrued and will continue to accrue.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

AFTON MEMORIAL HOSPITAL, Plaintiff,	)	
vs.	)	No. 81-C-306-E
TRG/WASHINGTON GROUP, INC., Defendant.	)	

FILED
SEP 16 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER

Pursuant to the Joint Stipulation of Dismissal filed herein, it is hereby ordered that the above cause is dismissed with prejudice.

Dated this 15 day of September, 1982.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOYCE LOUISE MILLS, Plaintiff,	)	
vs.	)	NO. 81-C-290-E
FORD LIFE INSURANCE CO., a corporation, Defendant.	)	

ORDER OF DISMISSAL

Now on this 15th day of September, 1982, upon the Joint Stipulation For Dismissal With Prejudice filed herein, the Court finds that the above styled and numbered cause of action should be, and is hereby, dismissed with prejudice.

IT IS SO ORDERED.

James O. Ellison

Honorable James O. Ellison
United States District Judge

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IN THE UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 16 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

VICKIE ANN SUTTON, Administratrix of the Estate of Bobby D. Sutton, Deceased, and RUTH FITE,	)	
Plaintiffs,	)	
-vs-	)	No. 81-C-779-E
GENE DAVIS, Administrator of the ESTATE OF MARTY G. ALLEN,	)	
Defendant.	)	

ORDER OF DISMISSAL

For good cause shown and upon application of the plaintiffs, the above styled and numbered case is hereby dismissed with prejudice toward the bringing of any further action.

JAMES O. ELLISON
JUDGE OF THE U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff, vs. JIMMY RAY BURCH, SUSAN L. BURCH, and KENNETH L. STAINER, Trustee, Defendants.	)	CIVIL ACTION NO. 82-C-673-B

FILED
9-15-82
Jack C. Silver, Clerk
U.S. District Court

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 15 day of September, 1982. The Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Nancy A. Nesbitt, Assistant United States Attorney, and the Defendants, Jimmy Ray Burch, Susan L. Burch, and Kenneth L. Stainer, Trustee, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, Jimmy Ray Burch and Susan L. Burch were served with Summons and Complaint on July 22, 1982; that Defendant Kenneth Stainer, Turstee, was served with Summons and Complaint on July 8, 1982, all as shown on the United States Marshal's Service filed herein.

It appears that the Defendants, Jimmy Ray Burch, Susan L. Burch, and Kenneth L. Stainer, Trustee, have failed to answer and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and for a foreclosure of a real property mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

> The South 70 feet of Lot 3, Block 19, Original Town of Collinsville, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

THAT the Defendants, Jimmy Ray Burch and Susan L. Burch, did, on the 16th day of July, 1980, execute and deliver to

the United States of America, acting through the Farmers Home Administration, their mortgage and mortgage note in the sum of $34,000.00 with eleven percent (11%) interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Jimmy Ray Burch and Susan L. Burch, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of $34,989.45 as unpaid principal, plus accrued interest of $6,813.18 as of August 26, 1982, plus interest thereafter at the rate of $10.5447 per day, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, Jimmy Ray Burch and Susan L. Burch, for the principal sum of $34,989.45, plus accrued interest of $6,813.18 as of August 26, 1982, plus interest thereafter at the rate of $10.5447 per day, until paid, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant, Kenneth L. Stainer, Trustee, is in default because no answer was timely filed and the interest, if any, of Kenneth L. Stainer, Trustee, is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Jimmy Ray Burch and Susan L. Burch to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the

Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint herein are forever barred and foreclosed of any right, title, interest or claim to the real property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING
United States Attorney

Nancy A. Nesbitt

NANCY A. NESBITT
Assistant United States Attorney

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 15 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

DONALD L. McBRIDE,	)	
Plaintiff,	)	
v.	)	NO. 82-C-378-BT
JAMES EDWARD SULLIVAN, POSEY TRUCK LINES, INC., and OTASCO, INC.,	)	
Defendants.	)	

ORDER OF DISMISSAL

ON This 15 day of September, 1982, upon the written application of the parties for A Dismissal with Prejudice of the Complaint and all causes of action, the Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendants be and the same hereby is dismissed with prejudice to any future action.

S/ THOMAS R. BRETT

Judge, District Court of the United States
Northern District of Oklahoma

FILED

SEP 15 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 81-C-826-B
STEVEN R. WASSON,	)	
Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 15 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through NANCY A. NESBITT, Assistant United States Attorney, and the Defendant, Steven R. Wasson, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that Defendant, Steven R. Wasson, was personally served with Alias Summons and Complaint on August 13, 1982. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount of $689.80, plus 15% interest from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant,

Steven R. Wasson, for the principal sum of $689.80, plus 15% from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Nancy A. Nesbitt
NANCY A. NESBITT
Assistant U.S. Attorney

Steve Wasson
STEVEN R. WASSON

FILED

SEP 15 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MIDWAY MFG. & SUPPLY CO., Plaintiff,	)	
vs.	)	No. 82-C-436-B ✓
FRANKLIN SUPPLY COMPANY, Defendant,	)	
OILFIELD EQUIPMENT RENTAL 1980 A LTD., a partnership and PLH WORKOVER CO., a partnership, Intervenors.	)	

ORDER

This matter came on for hearing on August 18, 1982 on the Motion to Dismiss of defendant Franklin Supply Company of New York, Inc., the Motion to Dismiss of defendant Franklin Supply Company, and the Motion of Franklin Supply Company to join additional parties defendant. Also before the Court for consideration are the motions to intervene of PLH Workover Co., and Oilfield Equipment Rental 1980 A Ltd.

In support of its motion to dismiss, Franklin Supply Company of New York, Inc., asserts it is an inactive subsidiary of defendant Franklin Supply Company and was involved in no way with the transactions here in issue. Plaintiff states it has no objection to the dismissal of this defendant, and the Court concludes the motion should be granted.

In support of its motion to dismiss, Franklin Supply Company ("Franklin") asserts the plaintiff Midway Mfg. & Supply Co.

("Midway") is not the real party in interest. The movant alleges Texas International Company ("Texas International") owns all of the outstanding stock of Midway and has all of the right, title and interest to the claim being asserted by plaintiff in this lawsuit. Further, the movant alleges Texas International is the only entity which has the power to make final and binding decisions concerning the prosecution of this action. In response, Midway admits Texas International owns the stock of Midway, but asserts Midway is a legally distinct entity from Texas International and the Board of Directors of Midway has full authority to make binding decisions regarding the prosecution of the instant action.

A review of the documents appended to plaintiff's complaint reveals no mention of Texas International Company; rather, Midway appears as the vendor of the equipment in question. Nothing appears on the face of the complaint, or elsewhere in the limited record established thus far, indicating Midway is not a legally distinct entity from Texas International or that Midway's Board of Directors lacks authority to make binding decisions with respect to the prosecution of this lawsuit. Accordingly, the Court concludes Midway is the real party in interest here, and the motion to dismiss must be denied. Insofar as the intervenors adopt this motion to dismiss, their motions likewise must be denied.

PLH Workover Co. ("PLH") and Oilfield Equipment Rental 1980 A Ltd. ("Oilfield Equipment") have moved to intervene. Noting the parties have no objection to the motion, and concluding the issues raised involve questions of law and fact common to those raised by the parties, the Court concludes the motions should be granted. Having so concluded, defendant's motion to join additional parties defendant must be denied as moot.

From a review of the pleadings in this case, it is not immediately clear whether the intervenors are properly aligned in this matter as parties defendant, and the Court may realign them as circumstances dictate. Further, as the Court is always under a duty to examine its subject matter jurisdiction, the intervenors will be directed to inform the Court as to the citizenship of the general partners of the intervening partnerships.

IT IS THEREFORE ORDERED the motion to dismiss of Franklin Supply Company of New York, Inc., is hereby granted and the action is dismissed as to that defendant.

IT IS FURTHER ORDERED the motion to dismiss of Franklin Supply Company is hereby denied.

IT IS FURTHER ORDERED the Motions to Intervene of PLH Workover Co. and Oilfield Equipment Rental 1980 A Ltd., are hereby granted. The intervenors are directed to inform the

Court as to the citizenship of their general partners on or before September 24, 1982. This may be done by way of amendment to their claims in intervention.

IT IS FURTHER ORDERED the Motion of Franklin Supply Company to Join Additional Parties Defendant is hereby denied as moot.

ENTERED this 15th day of September, 1982.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, and ROBERT RANDOLPH, Revenue Officer, Internal Revenue Service,	)	
Petitioners,	)	
vs.	)	No. 82-C-680-E
AL JURIN FLANNER,	)	
Respondent.	)	

FILED
SEP 13 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER FOR DISMISSAL

Upon application of the United States of America the records so summoned have been received by the United States of America in accordance with the Court's Order.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that this case be dismissed.

Dated this 13 day of July, 1982.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

SEP 1 3 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-78-E
DANIEL P. COOK, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 13 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Daniel P. Cook, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Daniel P. Cook, was personally served with Summons and Complaint on January 29, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Daniel P. Cook, for the principal sum of $300.00, plus interest at the legal rate (15%) from the date of this Judgment until paid.

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED
SEP 13 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-69-E
SERGE R. HANSON, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 13 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Serge R. Hanson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Serge R. Hanson, was personally served with Summons and Complaint on January 29, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Serge R. Hanson, for the principal sum of $933.00 (less the amount of $633.00 which has been paid), plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GLACIER GENERAL ASSURANCE COMPANY, a corporation, Plaintiff, vs. PACIFIC EMPLOYERS INDEMNITY COMPANY OF HOUSTON, TEXAS, a division of Insurance Company of North America, a Texas corporation; HARTFORD ACCIDENT AND INDEMNITY COMPANY, a Connecticut corporation; and LLOYD'S UNDERWRITERS AT LONDON, a foreign insurance corporation, Defendants.	)	Case No. 78-C-86-E

FILED
SEP 13 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Upon application of the defendants, Hartford Accident and Indemnity and Lloyd's Underwriters at London, and for good cause shown, defendants' Counterclaim against the plaintiff is dismissed with prejudice, the plaintiff waives any right to appeal the Court's decisions concerning its claim against all of the defendants and the overruling of plaintiff's Motion For Summary Judgment against defendants' Counterclaim, all parties to bear their own costs and attorney's fees.

UNITED STATES DISTRICT JUDGE

95

FILED
SEP 10 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GREEN COUNTRY SALADS, INC., Plaintiff,	)	
v.	)	Civil Action No. 82-C-511-E
J & M FARMS, INC., Defendant.	)	

NOTICE OF DISMISSAL BY PLAINTIFF
UNDER F.R.C.P. RULE 41(a)(1)

To: Lamar E. Ottsen, Jr.
Moline, Tegethoff, Ottsen, Mauze, and Legget
St. Louis County Bank Building
11 South Meramec, Suite 1010
St. Louis, Missouri
Attorney for Defendant

Please take notice that the plaintiff discontinues the above entitled action and dismisses the complaint without prejudice.

James R. Head
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed by first-class postage prepaid this 10th day of September, 1982, to Lamar E. Ottsen, Moline, Tegethoff, Ottsen, Mauze, and Leggat, 11 South Meramec, Suite 1010, St. Louis, Missouri, and to Ben T. Owens, 21 South Main Street, Post Office Box 1168, Miami, Oklahoma 74354.

James R. Head

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

EQUILEASE CORPORATION, A New York Corporation, Plaintiff,	)	
vs.	)	
RONALD L. STANHOPE, TED WALLIN, JOHN LONGACRE d/b/a LONGACRE ENTERPRISES, FRIMAN HOLMES a/k/a FREEMAN HOLMES d/b/a S & H DRILLING COMPANY and BOB J. WHITWORTH, Creek County Sheriff, Defendants.	)	No. 82-C-656-C

FILED
SEP 10 1982
Jack L. Silver, Clerk
U.S. District Court

JOURNAL ENTRY OF JUDGMENT

ON this 7th day of September, 1982, Plaintiff's Motion for Summary Judgment against Bob J. Whitworth comes on to be heard in its regular setting, plaintiff appearing by its attorney, Bradford S. Baker and defendant appearing not but having communicated with the Court this day.

The Court finds it has jurisdiction of the parties and of the subject matter and that plaintiff's motion should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff be and hereby is granted judgment requiring the defendant Bob J. Whitworth to relinquish his constructive possession of the Cardwell model A150A, 4,000 ft. capacity oil well drilling rig (SN:101) together with all ancillary equipment and appurtenances thereon as more fully described in Exhibit "A" attached and made a part hereof, and to abide by any orders of the Court with respect to said personal property.

s/H. DALE COOK

H. DALE COOK, JUDGE

TIPS, GIBSON, CREWSON & BAKER
ATTORNEYS AT LAW
500 MID-CONTINENT BUILDING
TULSA, OKLAHOMA 74103
(918) 585-1181

SCHEDULE A

Schedule Forming Part of Uniform Commercial Code - Financing Statement - Form UCC-1

Between Ronald L. Stanhope, 27 North 27th Street - Suite 1905, Billings, Montana 59101,

DEBTOR, and Equilease Corporation, 750 Third Avenue, New York, NY 10017, SECURED PARTY.

COLLATERAL:

One (1) Used Cardwell Model A150A 4,000 ft. Capacity Oil Well Drilling Rig (SN: 101) consisting of:

BLOCKS - TRAVELLING
One (1) Unit - Model B430A. Four (4) - 30" dia. sheaves grooved 1".

HOOK
BJ Model 460.

BLOWOUT PREVENTERS
One (1) Hydril Model G.K. Size 10" 3000# W.P.
One (1) Cameron Model SS Double Size 10" 3000# W.P.

BLOWOUT PREVENTER ACCESSORIES
One (1) Cameron Type F 3" 3000# W.P. hydraulic operated gate valve with manual over-ride.
One (1) Spool 10" 3000# W.P. with two (2) - 3" 3000# W.P. 18" high & 30' wide at outlet.
One (1) Spool 20" 3000# W.P. x 10" 3000# W.P. with two (2) - 2" side outlets studded 13 1/2" high.
One (1) 3" 3000# W.P. flanged WKM valve.
Two (2) 2" 3000# W.P. flanged gate valves.

MANIFOLD (FLARE LINE)
One (1) Flare line manifold 3" 3000" W.P. consisting of nine (9) - 3" 3000# W.P. O.C.T. flanged valve one (1) - 3" 3000# W.P. flanged Cameron valve one (1) - 3" 3000# W.P. flanged McElroy valve one (1) - 3x3x2x2 solid steel cross studded one (1) - 3x3x2x2x2 cross flanged one (1) - 3x3x3x3 steel cross studded. One (1) - 3" spacer flange 6" long, one (1) - 3" x 2" WKM valve, two (2) - 3" O.C.T. adjustable chokes.

ACCUMULATOR UNITS
One (1) Koomey Model D03060-35 S/N 3788 electric powered with six (6) - 10 gal. accumulator bottles, duplex pump driven by 30 H.P. motor.

CHOKE MANIFOLD
One (1) 3-Station type Barksdale 4-way valves. Location at accumulator.
One (1) Remote 3-Station type Barksdale 4-way valves Station 3. Location Doghouse.

BUILDINGS
One (1) Doghouse, size 8'W x 7'H x 16'L.
One (1) Flare Line Manifold House, size 9'W x 12'L.
One (1) Pump House, size 27'L x 10'W x 8'7"H.
One (1) Light Plant, Accumulator, Tool House & Change House, size 9'W x 7'9"H x 43'L.

COMPRESSORS - AIR, COMPLETE UNITS
One (1) Westinghouse Model 2VC1 driven by motor 3 HP Model Westinghouse on air receiver 42"L x 20" diam.
One (1) Brunner Model H6 driven by motor 3 HP, 3500 R.P.M. on air receiver 42"L x 20" diam.

DRAWWORKS
One (1) Cardwell Model Skyhorse A150A (S/N 101) drum grooved 1", Sandline Drum 13" x 39 1/2", Catheads Spinning Kelco SH, Catheads Breakout Kelco BA, Auxiliary Brake Parmac 15" Double, Drilling Line 1" x 3500', Sandline 6000' 1/2" Polycore, Bell Automatic Driller with Rotary driven and drive for G.M. 6V71 engine.

MAST
One (1) Cardwell 101' hydraulic raising cylinders.

SLUSH PUMP ACCESSORIES

One (1) Independent slush pump drive with skids, engine extension shaft with pump drive sheave and guard.

One (1) Mission Model 5 x 6R charging pump powered by pump engines driven off main pump including sheaves, belts, guards, mounting brackets and piping into suction of the pump.

One (1) Mud Mixer Pump Mission Model 5 x 6R powered by 50 HP Tamper motor.

One (1) Miscellaneous mud system including valves, guns, mixers, hopper, pipe, unions, and other necessary equipment.

RACKS

Three (3) Tumble type pipe racks.

One (1) Catwalk.

One (1) Ramp and stair.

MATTING

One (1) Set wooden matting, unitized sections 6" solid wood in steel frames.

ROTARY TABLE

One (1) Gardner Denver Model RT18 18" table opening.

SWIVEL

One (1) National N24 with 6 5/8" Reg. L.H. Pin.

SHALE SHAKER

One (1) Brandt Double Deck High Speed Shale Shaker.

TANKS - COMBINATION

One (1) Water tank and fuel tank 9'W x 7'10"H x 44'5" overall length. Fuel tank 12'L and water tank 32'L with 5" space between. Doghouse lowers into water tank by winch for moves.

TANK - MUD

One (1) Mud Tank divided into four separate sections. Total capacity 290 Bbls.

One Shaker Section	9'W x 5'H x 12'L
One Center Section	9'W x 5'H x 12'L
One Suction Section	9'W x 5'H x 12'L
One Mud Mixing Section	9'W x 5'H x 6'L

Mud Tank equipped with necessary low pressure and high pressure mud guns.

WEIGHT INDICATOR

One (1) Cameron Model C capacity 400,000#.

TONGS

One (1) Set Web Wilson Model B, size 2 7/8" x 10 3/4".

MISCELLANEOUS TOOLS

MISCELLANEOUS SPARE PARTS & FITTINGS

And all together with all ancillary equipment and appurtenances thereon.

Ronald L. Stanhope
Debtor

BY: Ronald L. Stanhope
Ronald L. Stanhope - Owner

Attest (Witness)

Equilease Corporation
Secured Party

BY: _____
Name

V.P.
Title

Attest (Witness)

SUBSTRUCTURE
One (1) 14'H x 14'W x 14'L - 12.30' to bottom of table beams.
One (1) Subbase size 44'L x 8'W x 5'H.
Two (2) Wings hinged 40"W x 48'L.

DRILL COLLARS
Six (6) 6" O.D. Drill Collars with 4 1/2" H90 connections.
Ten (10) 4 3/4" O.D. Drill Collars with 3 1/2" IF connections.

DRILL PIPE
One hundred forty-one (141) joints approximately 4300' 3 1/2" O.D., 9.5# Grade E, 3 1/2" I.F. 90° tool joints. Premium and #2.
Thirteen (13) joints approximately 400' 3 1/2" Hevi-Wate Drill Pipe 3 1/2" I.F.

ELEVATORS
One (1) Lot Elevators, Slips, Clamps & Spiders.

ELECTRICAL SYSTEM
One (1) Electrical system including lighting string, electrical panels and switchboards, electrical wiring, circuit breakers and motor starters.

ELEVATOR LINKS
One (1) Set BJ Size 2 1/4" x 72".
One (1) Set BJ Size 1 3/4" x 48".

ENGINES - DRAWWORKS
One (1) G.M. 6V-71 Model 7064-7000 (S/N: 6VA55893).

ENGINES - SLUSH PUMP
Two (2) G.M. 6V-71 Model 7064-7000 (S/N: 6VA63292 and 6VA01494).

FISHING TOOLS
One (1) Bowen Overshot Series 150 Assembly #8975, catches 3 1/2" to 4 3/4".

FIRE EXTINGUISHERS
One (1) Lot Fire Extinguishers and other Safety Equipment.

GAUGES
Three (3) Cameron Type D.
One (1) Martin Decker Type Hydro Mech Rotary Torque assembly.

KELLY
One (1) Square size 3 1/2" x 40'. 3 1/2" IF Pin Down, 6 5/8" Reg. Left Hand Box Up.

KELLY BUSHING
One (1) Varco Type 4 KRBM Size 3 1/2" square.

KELLY COCK
One (1) Hydril upper with 6 5/8" Reg. L.H. connection.
One (1) Hydril lower with 3 1/2" I.F. pin and box connections.

KELLY HOSE
One (1) 2 1/2" I.D. x 45' long with 3" connections tested 5000#.

LIGHT PLANT
One (1) G.M. 6V-71 Model 7064-7000 with Tamper 60 Cycle, 3 Phase, 100 KW generator. 110/220/440 volts. (S/N: 6VA32820)
One (1) Lot Flare Lines, fuel lines, water lines, air lines, steam lines and B.O.P lines as required.
One (1) Rathole and Mousehole.

MUD BUCKET - One (1)

SLUSH PUMP
One (1) Oilwell Model 350 PT S/N P190-1.
One (1) Pulsation Dampener Hydril Model K10-3000 valves one (1) - 3" & one (1) - 2" Demco valves one (1) - 2" 2750# shear relief valve.

FILED

SEP 10 1982

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 81-C-805-B
ALFRED ANDERSON,	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 10th day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Alfred Anderson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Alfred Anderson, was served with Summons and Complaint on August 4, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Alfred Anderson, for the principal sum of $642.40 plus interest at the legal rate of (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 10 1982
Clerk
U.S. District Court

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 81-C-774-B
LARRY K. RITZ, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 10th day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Larry K. Ritz, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Larry K. Ritz, was personally served with Summons and Complaint on August 3, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Larry K. Ritz, for the principal sum of $808.84, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED
IN OPEN COURT
SEP 10 1982
Jack C. Silver, Clerk
U. S. DISTRICT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff, vs. RICHARD A. DRIVER, SHARON R. DRIVER, COUNTY TREASURER, Tulsa County, Oklahoma, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, and TULSA ADJUSTMENT BUREAU, INC., Defendants.	)	CIVIL ACTION NO. 81-C-436-B

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 10th day of September, 1982. The Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Don J. Guy, Assistant United States Attorney, and the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appearing by their attorney, David A. Carpenter, Assistant District Attorney; and, the Defendants, Richard A. Driver, Sharon R. Driver, and Tulsa Adjustment Bureau, Inc., appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Richard A. Driver was served with Summons and Complaint on September 10, 1981, as shown on the United States Marshal's Service filed herein, and served with Amendment to Complaint by publication as shown on the Proof of Publication filed herein; that Defendant, Sharon R. Driver, was served with Summons, Complaint, and Amendment to Complaint on September 10, 1981, and January 17, 1982, respectively; that Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, were served with Summons, Complaint, and Amendment to Complaint on August 27, 1981, and December 7, 1981, respectively; that Defendant Tulsa Adjustment Bureau, Inc., was served with Summons, Complaint, and Amendment to Complaint on

December 8, 1981; all as shown on the United States Marshal's Services filed herein.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, have duly filed their Answers herein on December 10, 1981; and, that the Defendants, Richard A. Driver, Sharon R. Driver, and Tulsa Adjustment Bureau, have failed to answer and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and for a foreclosure of a real property mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

> Lot One (1), Block Three (3), SCOTTSDALE ADDITION, an Addition in Tulsa County, State of Oklahoma, according to the Recorded Plat thereof.

THAT the Defendants, Richard A. Driver and Sharon R. Driver, did, on the 18th day of November, 1975, execute and deliver to the United States of America, acting through the Farmers Home Administration, their mortgage and mortgage note in the sum of $23,000.00 with 8 1/8 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendants, Richard A. Driver and Sharon R. Driver, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of $22,979.76 as unpaid principal, plus accrued insterest of $2,836.53, as of December 1, 1981, plus interest from and after said date at the rate of 8 1/8 percent per annum on the principal sum of $22,979.76 until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, Richard A. Driver and Sharon R. Driver, the sum of $ 416.00 plus interest according to law for real estate taxes for the year(s) 1979-1980 and that Tulsa County should have judgment for said amount, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, Richard A. Driver and Sharon R. Driver, the sum of $ 26.00 plus interest according to law for personal taxes for the year(s) 1979-1980 and that Tulsa County should have judgment for said amount, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against Defendants, Richard A. Driver and Sharon R. Driver, for the principal sum of $22,979.76, plus accrued interest of $2,836.53, as of December 1, 1981, plus interest from and after said date at the rate of 8 1/8 percent per annum on the principal sum of $22,979.76 until paid, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the County of Tulsa have and recover judgment against Defendants, Richard A. Driver and Sharon R. Driver, for the sum of $ 416.00 as of the date of this judgment plus interest thereafter according to law for real estate taxes, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the County of Tulsa have and recover judgment against Defendants, Richard A. Driver and Sharon R. Driver, for the sum of

$ 28.00 as of the date of this judgment plus interest thereafter according to law for personal taxes, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant, Tulsa Adjustment Bureau, Inc., is in default because no answer was timely filed and the interest, if any, of Tulsa Adjustment Bureau, Inc., is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Richard A. Driver and Sharon R. Driver, to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds in satisfaction of Plaintiff's judgment, which sale shall be subject to the real estate tax judgment of Tulsa County, supra. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint herein are forever barred and foreclosed of any right, title, interest, or claim to the real property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

FRANK KEATING
United States Attorney

DON J. GUY
Assistant United States Attorney

DAVID A. CARPENTER
Assistant District Attorney
Attorney for Defendants,
County Treasurer and Board of
County Commissioners, Tulsa County

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-745-C
VERNON C. DURANT, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 10 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Nancy A. Nesbitt, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Vernon C. Durant, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Vernon C. Durant, was personally served with Summons and Complaint on August 5, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Vernon C. Durant, for the principal sum of $603.20, plus interest at the legal rate (15%) from the date of this Judgment until paid.

/s/ H. DALE COOK

UNITED STATES DISTRICT JUDGE

FILED

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-728-C
JOHN L. REYNOLDS, Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 10 day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Philard L. Rounds Jr., Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, John L. Reynolds, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, John L. Reynolds, was personally served with Summons and Complaint on July 23, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, John L. Reynolds, for the principal sum of $826.00, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/H. DALE COOK
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 10 1982

UNITED STATES OF AMERICA and RICHARD J. WHITBURN, Special Agent, Internal Revenue Service, Petitioners,	)	
vs.	)	CIVIL ACTION NO. 82-C-621-C
FOURTH NATIONAL BANK and CHARLES A. VIER, Senior Vice President, Respondents.	)	

ORDER DISCHARGING RESPONDENTS AND DISMISSAL

ON THIS 10 day of September, 1982, Petitioners' Motion to Discharge Respondents and for Dismissal came for hearing and the Court finds that Respondents have now complied with the Internal Revenue Service Summons served upon them April 22, 1982, that further proceedings herein are unnecessary and that the Respondents, Fourth National Bank and Charles A. Vier, Senior Vice President, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondents, Fourth National Bank and Charles A. Vier, Senior Vice President, be and they are hereby discharged from any further proceedings herein and this cause of action and Complaint are hereby dismissed.

s/H. DALE COOK
UNITED STATES DISTRICT JUDGE

FILED
SEP 10 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-531-B
DONALD E. BROWN, Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 10th day of September, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Philard L. Rounds Jr., Assistant United States Attorney, and the Defendant, , appearing by his Attorney, JOE RICHARD.

The Court, being fully advised and having examined the file herein, finds that Defendant, Donald E. Brown, was personally served with Summons and Complaint on May 12, 1982. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount of $224.27, plus interest at 7% per annum from April 21, 1982, until the date of this Judgment, plus 15% interest on the principal sum of $224.27 from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Donald E. Brown, for the principal sum of $224.27, plus interest at 7% per annum from April 21, 1982, until the date of this

Judgment, plus 15% interest on the principal sum of from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

PHILARD L. ROUNDS JR.
Assistant U.S. Attorney

DONALD E. BROWN

JOE RICHARD, Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 9 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JACK HOPE and KERRY HOPE, Plaintiffs,	)	
vs.	)	No. 82-C-616-B
BOYD OSLIN and DELORES OSLIN, Defendants.	)	

NOTICE OF DISMISSAL

COMES NOW the plaintiffs, and hereby give notice of their dismissal of the above entitled cause with prejudice, the Complaint having been served, and the adverse party not having sought Summary Judgment nor having answered all as per Rule 41 of the Federal Rules of Civil Procedure.

GARRISON & COMSTOCK, INC.
Attorneys for Plaintiffs

BY: _____
JON B. COMSTOCK
1509 South Victor
Tulsa, OK 74104
918/744-5757

United States District Court

FOR THE

STOCKTON OIL/GAS COMPANY, a partnership; HAROLD C. POWERS, JR., & JANA M. POWERS; ROYCE PULPS; MIKE & DARLENE HOYT and JOSEPH P. GOEBEL,

vs.

HALLIBURTON COMPANY, a Delaware corporation.

CIVIL ACTION FILE NO. 81-C-19-E

JUDGMENT

This action came on for trial (hearing) before the Court, Honorable James O. Ellison, United States District Judge, presiding, and the issues having been duly tried (heard) and a decision having been duly rendered,

It is Ordered and Adjudged that the defendant, Halliburton Ompany has moved for a directed verdict on its cross-claim and said motion is hereby sustained. Defendant is awarded judgment in the amount of $2,801.29 on its cross-claim.

FILED

SEP - 9 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Dated at Tulsa, Tulsa County, Oklahoma, this 9th day of September, 19 82.

James O. Ellison
~~Clerk of Court~~
Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP - 9 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	Civil No.
LENDER SERVICE INCORPORATED Defendant.	)	82-C-851-E

CONSENT DECREE

This action was commenced by the filing of a complaint by attorneys for the United States of America. The defendant, LENDER SERVICE INCORPORATED, by its attorney, has appeared and waived service of a summons and the complaint. The defendant has agreed to the entry of this consent decree without trial or adjudication of any issue of fact or law, and without admitting any of the allegations contained in the complaint. The parties having requested the Court to enter this consent decree, it is by the Court this day of , 1982,

ORDERED, ADJUDGED, AND DECREED that:

JURISDICTION

1. This court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 5(m)(1)(A), 9, 13(b) and 19 of the Federal Trade Commission Act ("FTCA"), 15 U.S.C. Sections 45(m)(1)(A), 49, 53(b), and 57b, and Section 704(c) of the Equal Credit Opportunity Act, 15 U.S.C. Section 1691c(c), as originally enacted and subsequently amended.

DEFINITIONS

2. As used in this consent decree:

(a) the term "Commission" shall mean the Federal Trade Commission;

(b) the term "defendant" shall mean LENDER SERVICE INCORPORATED and all of its officers, employees, agents, successors, and assigns, and all other persons acting in active concert or participation with any of them;

(c) the terms "adverse action," "applicant," "application," "credit," "creditor," "credit transaction," "consumer credit," "inadvertent error," and "judgmental system of evaluating applicants," are defined in the same manner as they are defined in Regulation B, 12 C.F.R. Section 202.2;

(d) "Regulation B" shall refer to the amended version of Regulation B, 12 C.F.R. Section 202, in effect on or after March 23, 1977;

(e) the terms "consumer reporting agency" and "consumer report" are defined in the same manner as they are defined in Section 603(f) and 603(d) respectively of the Fair Credit Reporting Act, 15 U.S.C. Section 1681a.

CIVIL PENALTY

3. The defendant shall forfeit to the plaintiff, pursuant to the FTCA, 15 U.S.C. Section 45(m)(1)(A) and (C), a civil penalty in the amount of ten thousand dollars ($10,000), due and payable on or before the tenth day following the entry of this consent decree. The payment shall be made by certified check payable to the Treasurer of the United States and delivered to the Assistant Director for Compliance, Bureau of Consumer Protection, Federal Trade Commission for appropriate disposition.

4. If the defendant fails to pay the civil penalty on or before the tenth day following the entry of this consent decree, the defendant shall be deemed to have defaulted. In the event of default, interest at the rate of eighteen percent (18%) per annum shall accrue thereon from the date of default until the date of payment. If the default continues for twenty-five days, the amount of the penalty specified in paragraph 3 shall be automatically modified to read fifteen thousand dollars ($15,000) instead of ten thousand dollars ($10,000), and interest payable on the new amount from the twenty-fifth day

forward shall accrue at the rate of eighteen percent (18%) per annum.

INJUNCTIONS

5. The defendant is enjoined from failing to provide to all applicants against whom adverse action is taken written notification of the action taken, the provisions of Section 701(a) of the Equal Credit Opportunity Act, and the name and address of the Federal Trade Commission as the administrator of the defendant's compliance with the Equal Credit Opportunity Act, in accordance with Section 202.9 of Regulation B. The defendant shall not be deemed to have violated this consent decree for failure to comply with this paragraph when such failure is caused by inadvertent error, provided that, on discovering the error, the defendent corrects it as soon as possible and commences compliance with the requirements of this paragraph.

6. The defendant is enjoined from failing to provide to all applicants against whom adverse action is taken written notification of either the reasons for adverse action or the applicant's right to be told the reasons for adverse action, in accordance with Section 202.9 of Regulation B. A statement of reasons is sufficient if it is specific and indicates the principal, accurate reason(s) for the adverse action. The defendant shall not be deemed to have violated this consent decree for failure to comply with this paragraph when such failure is caused by inadvertent error, provided that, on discovering the error, the defendant corrects it as soon as

possible and commences compliance with the requirements of this paragraph.

7. The defendant is enjoined from failing to retain each application on which it takes adverse action and information related to each such application as required by Section 202.12(b)(1) of Regulation B.

8. Whenever credit is denied wholly or partly because of information contained in a consumer report from a consumer reporting agency, the defendant is enjoined from failing to so advise the applicant against whom such adverse action is taken of such fact and shall supply the name and complete address of the consumer reporting agency making the report, in accordance with Section 615(a) of the Fair Credit Reporting Act. The defendant shall not be deemed to have violated this consent decree for failure to comply with this paragraph if such failure is caused by inadvertent error.

9. Whenever credit is denied either wholly or partly because of information that is obtained from a person other than a consumer reporting agency, the defendant is enjoined from failing to disclose to the applicant at the time the adverse action is communicated the applicant's right to learn the nature of such information upon written request to the defendant, in accordance with Section 615(b) of the Fair Credit Reporting Act. The defendant shall not be deemed to have violated this consent decree for failure to comply with this paragraph if such failure is caused by inadvertent error.

10. The defendant is enjoined from failing to review each application for credit against which adverse action was taken on or after August 1, 1978 and prior to the date of entry of this consent decree, where the applicant did not receive credit in the terms and amount requested, to determine whether a written notice of adverse action containing the principal, specific reasons for the original credit denial was furnished in writing to the applicant. Where the reviewer is unable to positively determine that such notice was furnished in writing to the applicant, a new credit denial statement shall be sent to the applicant in a letter which states that:

(a) the Equal Credit Opportunity Act entitles the consumer to be told the principal, specific reasons for the denial of credit;

(b) at the time that the defendant denied the applicant's credit application, the defendant may have failed to provide a written statement of the principal, specific reasons for its decision; and

(c) pursuant to an agreement with the Federal Trade Commission, the defendant is providing the applicant with a written statement of the principal, specific reasons for its denial of the applicant's credit application.

The defendant shall send the letter attached herein as Exhibit A, or, where further notification is required to comply with paragraphs 12 and 13, infra, the defendant shall send the appropriate letter attached as Exhibit D, Exhibit E, or Exhibit G.

The defendant shall mail the appropriate letter within ninety (90) days of the date of entry of this consent decree. Each such letter shall be accompanied by a copy of the Commission's Equal Credit Opportunity Act brochure reprinted at the defendant's expense.

11. In providing reasons to applicants pursuant to paragraph 10, the defendant is enjoined from failing to disclose each reason noted in the applicant's application file by the defendant's employee who made the original adverse decision, together with any additional reasons for denial which are readily apparent to the reviewer.

12. The defendant is enjoined from failing to review each application for credit against which adverse action was taken on or after August 1, 1978 and prior to the date of entry of this consent decree, where the applicant was denied credit and the application file contains:

(a) a report from a consumer reporting agency; and/or

(b) information obtained from an outside source other than a consumer reporting agency,

to determine whether credit was denied either wholly or partly due to information from such outside sources, and if so, whether proper notifications required by Section 615 of the Fair Credit Reporting Act were furnished to the applicant in writing.

13. Where the reviewer is unable to positively determine that the required notification(s) were furnished to the consumer in writing, the defendant is enjoined from failing within ninety(90) days from the date of entry of this consent decree, to furnish each such consumer with a letter which states that:

(a) the Fair Credit Reporting Act entitles consumers to be told the name and address of any consumer reporting agency which furnishes information used by a creditor to deny a credit application; and/or

(b) the Fair Credit Reporting Act entitles consumers to learn the nature of information from an outside source other than a consumer reporting agency which played a part in the creditor's decision to deny credit; and

(c) the defendant relied on information from a consumer reporting agency and/or another outside source in deciding to

deny the consumer's application; and

(d) pursuant to an agreement with the Federal Trade Commission, the defendant is now furnishing the name and address of the consumer reporting agency and/or the nature of the information obtained from another outside source.

The defendant shall send the appropriate letter attached herein as Exhibit B or Exhibit C, or Exhibit F or where further notification is required to comply with Paragraphs 10 and 11, supra, the defendant shall send the appropriate letter attached as Exhibit D, Exhibit E, or Exhibit G.

The defendant will be deemed to have complied with paragraphs 10 through 13 of this decree if the defendant properly conducts the test notification program set forth in the attached Exhibit H, and 80 percent or more of the notifications mailed in that test program are not received by their addressees.

REPORTING REQUIREMENTS

14. Within ninety (90) days following the date of entry of this consent decree, the defendant shall submit to the Commission, Division of Credit Practices, a full and complete description of how it has complied and is complying with the requirements of paragraphs 5, 6, 7, 8, and 9 of this consent decree. Such report shall include, but is not limited to, a copy of each document used to instruct the defendant's employees

or agents in the requirements of these paragraphs.

15. Within one hundred and fifty (150) days following the date of entry of this consent decree, the defendant shall submit to the Commission, Division of Credit Practices, a full and complete description of how it has complied with the requirements of paragraphs 10, 11, 12, and 13 of this consent decree. Such report shall include, but is not limited to, the number of applicants to whom the defendant mailed the letters proposed in paragraphs 10, 11, 12, and 13.

GENERAL

16. The defendant shall preserve documents which will demonstrate compliance with the requirements of this consent decree for a period of four (4) years after the date of entry of this consent decree. The defendant shall upon reasonable request permit Commission representatives to inspect and copy such records.

17. The defendant shall notify the Commission, Division of Credit Practices, at least thirty (30) days prior to any proposed changes in the corporate defendant which may affect its obligations arising under this consent decree, such as dissolution or sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries.

18. The Court retains jurisdiction over this action for the purpose of enforcing this consent decree and for the purpose of granting such additional relief to the United States of America

as may hereinafter appear appropriate.

19. The defendant waives any claim under the Equal Access to Justice Act.

DATED: 9-4-82

United States District Judge

The parties, by their respective counsel, hereby consent to the terms and conditions of the decree as set forth above and consent to the entry thereof.

United States Attorney
Northern District of Oklahoma
Attorney for Plaintiff
United States of America

By: _____
Assistant United States Attorney

By: _____
J. Patrick Glynn, Chief
Consumer Affairs Section
Antitrust Division
Department of Justice

FEDERAL TRADE COMMISSION

By: _____
Jean Noonan, Attorney
Division of Credit Practices
Bureau of Consumer Protection

_____
Janet E. Feldman, Attorney
Division of Credit Practices
Bureau of Consumer Protection

Robin A. Morris, Attorney
Division of Credit Practices
Bureau of Consumer Protection

Lewis H. Goldfarb
Assistant Director for
Credit Practices
Bureau of Consumer Protection

LENDER SERVICE INCORPORATED

By:
Thomas Childress
President
Lender Service Incorporated

By Attorneys for Lender Service
Incorporated:

Edwin S. Hurst, Esquire
Boone, Smith, Davis & Minter
900 World Building
Tulsa, Oklahoma 74103

J. Schaad Titus, Esquire
Boone, Smith, Davis & Minter

[This letter shall be used where the defendant failed to provide an applicant with written notice of the principal, specific reasons for adverse action taken against an application, as required by Section 202.9 of Regulation B.]

Dear [Applicant]:

A review of our records shows that within the last three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Equal Credit Opportunity Act, you are entitled to know the principal, specific reasons for denial of credit. Our records show that at the time we denied your credit application we may have failed to provide you with the principal, specific reasons for our decision. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

The reason(s) for the denial of your application is (are):

[Insert all principal, specific reasons.]

Enclosed is a brochure in which the Federal Trade Commission explains your rights under the Equal Credit Opportunity Act.

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

Lender Service, Inc.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against applicants on the basis of race, color, sex, marital status, national origin, religion, or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

EXHIBIT B

[This letter shall be used where the defendant failed to provide an applicant with a written statement of the notice required by Section 615(a) of the Fair Credit Reporting Act, or where the defendant failed to specify in such a notice the complete name and address of the consumer reporting agency involved.]

Dear [Applicant]:

A review of our records shows that within the past three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Fair Credit Reporting Act, you are entitled to know the name and address of a consumer reporting agency (usually a credit bureau) if your application was denied wholly or partly because of information in a consumer report furnished by that agency.

Our records indicate that at the time we denied your application we may have failed to provide you with a complete and accurate statement advising you that your application was denied in whole or in part because of information received from a consumer reporting agency. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

The denial of your application for credit was partly or wholly based on information in a "consumer report" obtained from:

_____
name

_____
street address

_____
city state zip

You may obtain complete information concerning your credit file from this consumer reporting agency. If you contact the consumer reporting agency within 30 days, you may learn this information without any cost to you.

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

Lender Service, Inc.

EXHIBIT C

[This letter shall be used where the defendant failed to provide an applicant with a written statement of the notice required by Section 615(b) of the Fair Credit Reporting Act.]

Dear [Applicant]:

A review of our records shows that within the past three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Fair Credit Reporting Act, you are entitled to know the nature of information we received from a person other than a consumer reporting agency (such as an employer or another creditor) if we relied upon that information in denying your credit application.

Our records show that at the time we denied your application we may have failed to provide you with a statement advising you that your application was denied in whole or in part because of information from an outside source and that you have a right to know the nature of that information. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

In declining your credit application we relied wholly or partly on the following information, which we received from a source other than a credit bureau:

[Insert the nature of the information relied upon.]

This information was furnished by:

[Insert the type of source (i.e., employer, department store, bank).]

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

EXHIBIT D

[This letter shall be used where the defendant failed to provide an applicant with written notice of the principal, specific reasons for adverse action taken against an application, as required by Section 202.9 of Regulation B, and with a written statement of the notice required by Section 615(a) of the Fair Credit Reporting Act specifying the complete name and address of the consumer reporting agency involved.]

Dear [Applicant]:

A review of our records shows that within the last three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Equal Credit Opportunity Act, you are entitled to know the principal, specific reasons for denial of credit. Under the Fair Credit Reporting Act, you are entitled to know the name and address of a consumer reporting agency (usually a credit bureau) if your credit application was denied wholly or partly because of information in a consumer report furnished by that agency.

Our records show that at the time we denied your application we may have failed to provide you with the principal, specific reasons for our decision. We may also have failed to provide you with a complete and accurate statement advising you that your application was denied in whole or in part because of information received from a consumer reporting agency. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

The reason(s) for the denial of your application is (are):

[Insert all principal, specific reasons.]

The denial of your application for credit was partly or wholly based on information in a "consumer report" obtained from:

_____
name

_____
street address

_____
city state zip

You may obtain complete information concerning your credit file from this consumer reporting agency. If you contact the consumer reporting agency within 30 days, you may learn this information without any cost to you.

Enclosed is a brochure in which the Federal Trade Commission explains your rights under the Equal Credit Opportunity Act.

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

Lender Service, Inc.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against applicants on the basis of race, color, sex, marital status, national origin, religion, or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC20580.

EXHIBIT E

[This letter shall be used where the defendant failed to provide an applicant with written notice of the principal, specific reasons for adverse action taken against an application, as required by Section 202.9 of Regulation B, and with a written statement of the notice required by Section 615(b) of the Fair Credit Reporting Act.]

Dear [Applicant]:

A review of our records shows that within the last three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Equal Credit Opportunity Act, you are entitled to know the principal, specific reasons for denial of credit. Under the Fair Credit Reporting Act you are entitled to know the nature of information we received from a person other than a consumer reporting agency (such as an employer or another creditor) if we relied upon that information in denying your credit application.

Our records show that at the time we denied your application we may have failed to provide you with the principal, specific reasons for our decision. We may also have failed to provide you with a statement advising you that your application was denied in whole or in part because of information from an outside source and that you have a right to know the nature of that information. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

The reason(s) for the denial of your application is (are):
[Insert all principal, specific reasons.]

In declining your credit application we relied wholly or partly on the following information, which we received from a source other than a credit bureau:

[Insert the nature of the information relied upon.]

This information was furnished by:

[Insert the type of source (i.e., employer, department store, bank).]

Enclosed is a brochure in which the Federal Trade Commission explains your rights under the Equal Credit Opportunity Act.

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

Lender Service, Inc.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against applicants on the basis of race, color, sex, marital status, national origin, religion, or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

EXHIBIT F

[This letter shall be used where the defendant failed to provide an applicant with a written statement of the notice required by Section 615(a) of the Fair Credit Reporting Act specifying the complete name and address of the consumer reporting agency involved, and where the defendant failed to provide an applicant with a written statement of the notice required by Section 615(b) of the Fair Credit Reporting Act.]

Dear [Applicant]:

A review of our records shows that within the past three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Fair Credit Reporting Act, you are entitled to know the name and address of a consumer reporting agency (usually a credit bureau) if your application was denied wholly or partly because of information in a consumer report furnished by that agency. You are also entitled to know the nature of information we received from a person other than a consumer reporting agency (such as an employer or another creditor) if we relied upon that information in denying your credit application.

Our records indicate that at the time we denied your application we may have failed to provide you with a complete and accurate statement advising you that your application was denied in part because of information received from a consumer reporting agency. We may also have failed to provide you with a statement advising you that your application was denied in part because of information from an outside source and that you have a right to know the nature of that information. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

The denial of your application for credit was partly based on information in a "consumer report" obtained from:

_____
name

_____
street address

_____
city state zip

You may obtain complete information concerning your credit file from this consumer reporting agency. If you contact the consumer reporting agency within 30 days, you may learn this information without any cost to you.

In declining your application we also relied partly on the following information, which we received from a source other than a credit bureau:

[Insert the nature of the information relied upon.]

This information was furnished by:

[Insert the type of source (i.e., employer, department store, bank).]

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

Lender Service, Inc.

EXHIBIT G

[This letter shall be used where the defendant failed to provide an applicant with written notice of the principal, specific reasons for adverse action taken against an application, as required by Section 202.9 of Regulation B, and with a written statement of the notice required by Section 615(a) of the Fair Credit Reporting Act specifying the complete name and address of the consumer reporting agency involved, and with a written statement of the notice required by Section 615(b) of the Fair Credit Reporting Act.]

Dear [Applicant]:

A review of our records shows that within the last three years we received from you an application for consumer credit to purchase a mobile home which we denied. Your application was referred to us by [name of dealer].

Under the Equal Credit Opportunity Act, you are entitled to know the principal, specific reasons for denial of credit. Under the Fair Credit Reporting Act, you are entitled to know the name and address of a consumer reporting agency (usually a credit bureau) if your credit application was denied wholly or partly because of information in a consumer report furnished by that agency. Under the Fair Credit Reporting Act, you are also entitled to know the nature of information we received from a person other than a consumer reporting agency (such as an employer or another creditor) if we relied upon that information in denying your credit application.

Our records show that at the time we denied your application we may have failed to provide you with the principal, specific reasons for our decision. We may also have failed to provide you with a complete and accurate statement advising you that your application was denied in part because of information received from a consumer reporting agency. Moreover, we may not have given you a statement advising you that your application was denied in part because of information from an outside source and that you have a right to know the nature of that information. Therefore, under a Consent Decree we have signed with the Federal Trade Commission, we are now giving you the following information.

The reason(s) for the denial of your application is (are):

[Insert all principal, specific reasons.]

The denial of your application for credit was partly based on information in a "consumer report" obtained from:

_____
name

_____
street address

_____
city state zip

You may obtain complete information concerning your credit file from this consumer reporting agency. If you contact the consumer reporting agency within 30 days, you may learn this information without any cost to you.

In declining your credit application we also relied partly on the following information, which we received from a source other than a credit bureau:

[Insert the nature of the information relied upon.]

This information was furnished by:

[Insert the type of source (i.e., employer, department store, bank).]

Enclosed is a brochure in which the Federal Trade Commission explains your rights under the Equal Credit Opportunity Act.

If you have any questions concerning this letter, please contact us by calling [phone number].

Sincerely,

Lender Service, Inc.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against applicants on the basis of race, color, sex, marital status, national origin, religion, or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

EXHIBIT H

The defendant shall conduct a consumer redress test notification program as follows:

The defendant shall review its files of applications against which it took adverse action and select 200 applications which require notification to applicants as set forth in paragraphs 10-13, inclusive, of this consent decree. In selecting the 200 applications, the defendant shall first concurrently review applications against which it took adverse action in the months of March, 1979 and March, 1980. If 200 or more applications requiring notification are found from March, 1979, and March, 1980, the defendant shall select the first such 200 consecutively filed applications according to the corresponding days in March, 1979, and March, 1980. (For example, if 200 consecutively filed applications requiring notification are found through 27 days of March, 1979 and March, 1980, such applications will form the basis of the sample for the purposes of the consumer redress test notification program.)

If less than 200 applications requiring notification are found from March, 1979, and March, 1980, the defendant then shall concurrently review applications against which it took adverse action in April, 1979 and April, 1980. If 200 or more applications are found from March and April, 1979 and 1980, the defendant shall then select the first 200 applications consecutively filed according to the corresponding dates in 1979 and 1980. The process shall be repeated on consecutive months for the years 1979 and 1980 until 200 applications fitting the

for the years 1979 and 1980 until 200 applications fitting the categories of paragraphs 10-13 of the consent decree have been identified.

After selection of the 200 applications, the defendant shall send an appropriate notification letter as set forth in Exhibits A through G attached hereto, certified mail, RETURN RECEIPT REQUESTED, and ADDRESSEE ONLY, to each of the 200 selected applicants.

Within thirty (30) days after the date of the return of the certified mail RETURN RECEIPT, ADDRESSEE ONLY mailing to the 200 applicants, the defendant shall deliver to the Federal Trade Commission's Division of Credit Practices, a compliance report summarizing the results of the test notification program. The report shall include the number of each type of notification letter (Exhibits A through G) mailed, the number of notification letters returned to the defendant, and the number of returned receipts received by the defendant which were accepted by the applicant according to ADDRESSEE ONLY. These results shall be reported separately for applicants from the years 1979 and 1980 to whom notification letters were mailed.

If the test reveals that 80% or more of the test notification letters were not received by the applicant ADDRESSEE ONLY, the defendant shall be deemed to have complied fully with the consumer redress requirements in paragraphs 10-13 of this consent decree. If 21% or more of the test notification letters are received and accepted by the applicant ADDRESSEE ONLY, the defendant shall immediately implement the full consumer redress program as set forth in paragraphs 10-13 of the consent decree.

REASONS FOR SETTLEMENT

This statement accompanies the Consent Decree executed by defendant Lender Service Incorporated in settlement of an action brought to recover penalties and to obtain affirmative relief for engaging in certain acts and practices, with actual knowledge or knowledge fairly implied on the basis of objective circumstances, that such acts and practices were in violation of the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. §§1691 et seq., and its implementing Regulation B, 12 C.F.R. §202. Regulation B is enforceable as a trade regulation rule pursuant to the Federal Trade Commission Act ("FTCA"), 15 U.S.C. §45(m)(1)(A). The Consent Decree also includes affirmative relief for violations of the Fair Credit Reporting Act ("FCRA"), which is enforceable as a violation of the FTCA, according to §1681s(a) of the FCRA.

As required by Section 5(m)(3) of the FTCA, 15 U.S.C. §45(m)(3), the Commission hereby sets forth its reasons for settlement by entry of a Consent Decree and injunction:

On the basis of the allegations contained in the attached complaint, the Commission believes that the payment of ten thousand dollars ($10,000) in civil penalties by the defendant, Lender Service Incorporated, constitutes an appropriate amount upon which to base a settlement and should assure compliance with the law by the defendant and others who may be in viola-

tion. Additionally, the defendant has agreed to the injunctive relief the plaintiff has requested. Finally, with the entry of the Consent Decree, the Commission will avoid the time and expense of litigation.

For the foregoing reasons, the Commission believes that the settlement by entry of the attached Consent Decree with Lender Service Incorporated is justified and well within the public interest.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 9 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

CLAUDETTE S. FURR and GARLAND FURR,	)	No. 82-C-197-B
Plaintiffs,	)	
vs.	)	
ROY LEE ROBBINS,	)	
Defendant.	)	

STIPULATION OF DISMISSAL WITH PREJUDICE

COME NOW the Plaintiffs, Claudette S. Furr and Garland Furr, and dismiss their claims with prejudice to the rights to the bringing of any other future action against the Defendant, Roy Lee Robbins.

/s/
Barbara Anne Miller
Attorney for Plaintiffs

/s/
Jeffrey A. King
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID LEE GIVENS and HAZEL GIBBONS, d/b/a HAZEL'S ESCORT SERVICE, Plaintiffs,	)	
vs.	)	No. 82-C-233-B
RED RIVER TRUCKING COMPANY, a Texas corporation, and LEROY LUCAS, individually, Defendants.	)	

FILED
SEP 9 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This matter comes before the Court on defendants' Motions to Dismiss for lack of jurisdiction and improper venue. For the reasons set forth below, the motions are granted and the action is dismissed.

I.

As an initial matter, the Court notes defendants' assertion the action should be dismissed on the basis of improper venue is without merit. Section 1391(a) of Title 28 of the United States Code Annotated provides:

> A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in the judicial district where all plaintiffs or all defendants reside, or in which the claim arose. [Emphasis added.]

From the face of the Complaint herein, it is apparent the plaintiffs reside in the City of Tulsa, Oklahoma, which is located in the Northern District of Oklahoma. Accordingly, venue is proper in this Court under §1391(a).

Although defendants do not specify whether the Court lacks subject matter or in personam jurisdiction over defendants, it is apparent from the Complaint the Court has subject matter jurisdiction over these parties of diverse citizenship under 28 U.S.C.A. §1332.

II.

The question of whether this Court has in personam jurisdiction over the defendants presents a distinct question, however. The Complaint discloses the defendant corporation is incorporated under the laws of the State of Texas and has its principal place of business in that state. In addition, the Complaint indicates the individual defendant Lucas is a citizen of the State of Texas, and the acts complained of took place in Texas.

Presumably, plaintiffs rely on the long-arm statutes of the State of Oklahoma, 12 Okl.St.Ann. §§ 187 and 1701.03(a)(1), to provide jurisdiction over the defendant corporation, for no other basis is apparent.[1/] The burden is, therefore, on plaintiffs to establish such jurisdiction. Yarbrough v. Elmer Banker & Associates, Auctioneers, 669 F.2d 614, 616 (10th Cir. 1982); Wilshire Oil Company v. Riffe, 409 F.2d 1277, 1282 (10th Cir. 1969). A review of the Complaint herein discloses no allegations

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1/ Plaintiffs do not address the issue of in personam jurisdiction, in terms, in their response brief; rather, plaintiffs couch the question in terms of whether venue is proper. Nevertheless, inasmuch as defendants have placed the question of this Court's in personam jurisdiction over defendants in issue, the Court has endeavored to extract from plaintiffs' brief contentions relevant to the jurisdictional issue.

setting forth any basis for concluding the defendant corporation had sufficient contacts with the State of Oklahoma to support a finding of in personam jurisdiction. In their response brief to the instant motion, plaintiffs assert the defendant corporation does business in this state as a common carrier; however, plaintiffs have not shown that any alleged contacts the defendant corporation had with the State of Oklahoma are in any way related to the acts complained of in the matter sub judice. It is well established the Oklahoma long-arm statutes provide in personam jurisdiction over a defendant who is transacting business in this state only where the alleged cause of action arises from the acts which form the basis for such jurisdiction. See, e.g., Luckett v. Bethlehem Steel Corporation, 618 F.2d 1373, 1386 (10th Cir. 1980). Accordingly, even assuming the defendant corporation does business in the State of Oklahoma as a common carrier, that fact standing alone is insufficient to confer this Court with in personam jurisdiction over such defendant, for plaintiffs have not shown the defendant corporation's alleged common carrier activities in Oklahoma are in any way related to the acts complained of here, viz: negligent operation of a vehicle in Texas. Thus, the Court must conclude plaintiffs have failed to carry their burden of demonstrating this Court's jurisdiction over the defendant corporation, and such defendant must be dismissed as a party to this action.

III.

The Complaint discloses the individual defendant Lucas is a citizen of the State of Texas, is employed by a Texas corporation in Texas, and the acts complained of allegedly occurred in the State of Texas. No allegations are made therein demonstrating Lucas had any contacts with the State of Oklahoma. In their brief in response to the instant motion, plaintiffs assert:

> Plaintiffs would state that this action against the individual defendant is based on the doctrine of Respondent (sic) Superior, and thus his citizenship for diversity purposes is deemed to be the same as that of the employer corporation, and venue properly lies within the State of Oklahoma.

As an initial matter, the Court notes the doctrine of respondeat superior supports, in appropriate circumstances, a finding of liability against an employer for the acts of its servants; in other words, contrary to the contention of plaintiffs, that tort doctrine cannot supply a basis for liability against the servant. Assuming plaintiffs' contention in this regard is inadvertently misstated, and plaintiffs true assertion is to the effect that where an action is lodged against an employer for the acts of its servant, a finding of in personam jurisdiction over the employer necessarily invests the Court with in personam jurisdction over the servant, the Court finds no authority for such a proposition, and concludes it is an incorrect statement of the law. The Court having found no basis for in personam jurisdiction over the individual defendant Lucas, such defendant must be dismissed as a party to this action. Further, the Court

lacking in personam jurisdiction over both defendants herein, the action must be dismissed.

IT IS THEREFORE ORDERED the Motions to Dismiss of the defendants herein are granted and the action is dismissed.

ENTERED this 9th day of September, 1982.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 9 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

MICHAEL L. ORANGE, Plaintiff,	)	
vs.	)	No. 81-C-581-E
DAVID L. SHAW and LETA SHAW, Defendants.	)	

ORDER DISMISSING ACTION WITHOUT PREJUDICE

Upon Plaintiff's Motion for Dismissal Without Prejudice, and upon being advised that Defendants have no objection to such dismissal, for good cause shown, it is

ORDERED that the above entitled action is hereby dismissed without prejudice, each party to bear his or her own costs.

ENTERED this 9 day of September, 1982.

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
SEP 8 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

SHREVEBEL CORPORATION, Plaintiff, vs. RESOURCES DIVERSIFIED, INC., an Oklahoma corporation, LOU PORTER, CARL MARTIN, individuals, Defendants.	)	No. 82-C-602-E

JUDGMENT

On the 8 day of September, 1982, plaintiff, Shrevebel Corporation, appeared by and through its attorneys, Kornfeld, Satterfield, McMillin, Harmon, Phillips & Upp, and the defendant, Resources Diversified, Inc., appeared by and through its attorney, Patrick J. Malloy, III, and the defendant Lou Porter, appeared by and through his attorneys, John Otto and Patrick J. Malloy, III, and said parties announce to the Court that they have entered into a settlement agreement, and agree that judgment should be entered against the defendants, Resources Diversified, Inc., and Lou Porter, in the principal sum of $2,750,000, plus interest thereon at the rate equal to 2% above the prime rate charged from time to time by the First National Bank and Trust Company of Oklahoma City, Oklahoma.

The Court finds, after hearing statements of counsel, reviewing the file, and reviewing applicable authorities, that judgment should be entered in favor of the plaintiff, Shrevebel Corporation, and against the defendants, Resources Diversified,

Inc., and Lou Porter according to the terms of the settlement agreement announced to the Court.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that judgment be entered in favor of plaintiff Shrevebel Corporation, and against the defendants, Resources Diversified, Inc., and Lou Porter in the amount of $2,750,000, plus interest thereon from date of judgment at the rate equal to 2% above the prime rate charged from time to time by the First National Bank and Trust Company of Oklahoma City, Oklahoma.

DATED this 3rd day of Sept, 1982.

S/ JAMES O. ELLISON

James O. Ellison,
United States District Judge

Approved as to Form:

Kornfeld, Satterfield, McMillin,
Harmon, Phillips & Upp

By _____
John Leo Wagner,
Attorney for Shrevebel Corporation

_____
John Otto,
Attorney for Lou Porter

_____
Patrick J. Malloy, III
Attorney for Resources Diversified, Inc.

FILED
SEP 8 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARTIN LUTHER REED, Petitioner,	)	
vs.	)	No. 81-C-386-B
L.T. BROWN, Warden, et al., Respondents.	)	

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS

On March 4, 1982, this Court entered an order dismissing the instant petition, concluding the first and second grounds urged by petitioner were without merit and the third, fourth and fifth grounds had not been exhausted in the state courts of Oklahoma. Subsequently, the United States Supreme Court handed down its decision in Rose v. Lundy, 102 S.Ct. 1198 (1982), wherein the Court determined the presence of unexhausted claims in a federal habeas petition prevented a determination by the district courts of the merits of exhausted claims asserted in the same petition. Accordingly, on appeal, the Court of Appeals for the Tenth Circuit vacated this Court's Order and remanded the cause for further proceedings consistent with the opinion in Rose.

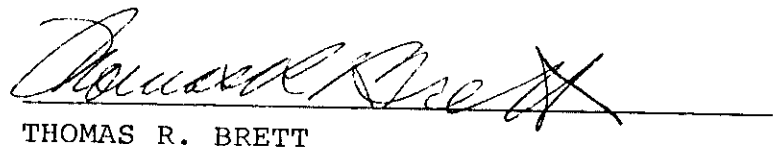
The matter came on for hearing on September 8, 1982 with petitioner personally present and proceeding pro se. Respondents were represented by Patricia Gerrity and Scott Silverman, Assistant Attorneys General of the State of Oklahoma. The Court inquired of petitioner whether he had read the opinion of the

Tenth Circuit Court of Appeals remanding the matter to this Court, and whether he understood he had the option of resubmitting a federal habeas petition containing only the exhausted claims or of attempting to exhaust the remaining unexhausted claims in the state courts. Petitioner indicated he understood the options available to him, and wished to give up any right to pursue the unexhausted claims, the same being denominated grounds Three, Four, and Five in the Court's prior Order, and proceed only with respect to the exhausted claims.[1/] Accordingly, the Court has proceeded to examine the first and second grounds asserted in support of the instant petition.

Upon an additional review of the record and the Court's Order of March 4, 1982 dismissing the first two grounds asserted by petitioner on their merits, the Court concludes such Order accurately addresses and disposes of the issues raised. Accordingly, the Court adopts those portions of its previous Order addressing the first and second grounds urged by petitioner in support of his petition.

IS IS THEREFORE ORDERED petitioner's Petition for Writ of Habeas Corpus is hereby dismissed.

ENTERED this 8th day of September, 1982.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

1/ Petitioner further indicated his understanding of the distinction between exhausted and unexhausted claims in his "Memorandum of Law and Arguement (sic) in Support of Mixed Habeas Corpus Petition" filed with this Court on September 18, 1981.

FILED

SEP 28 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LEONARD VICKERS, Plaintiff,	)	
vs.	)	No. 81-C-492-C
TULSA CITY COUNTY HEALTH DEPT., HEAD OF HEALTH DEPT., TULSA DOG POUND, Defendants.	)	

ORDER

Now before the Court for its consideration are the motions of the Tulsa City County Health Department (TCCHD) and the "Head of the Tulsa Dog Pound" to dismiss.[1] These motions were converted into motions for summary judgment by the Court on May 3, 1981. The plaintiff has responded to these motions and they are now ready for decision.

The plaintiff has brought his complaint against the defendants for alleged violations of his civil rights pursuant to 42 U.S.C. §1983. The complaint, in its essence, raises two purported violations of the equal protection clause to the Fourteenth Amendment to the United States Constitution.[2] The first purported violation deals only with the officials of the "Tulsa Dog Pound" and the second with officials of the TCCHD. The Court will treat these claims in the reverse order as set out above.

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[1] From the record it is apparent that there is no position "Head of Tulsa Dog Pound". The Chief of Police of the City of Tulsa was served with a summons that listed as defendant "Head of Tulsa Dog Pound". The plaintiff, in his complaint caption, listed as defendants the Tulsa City County Health Department, Head of Health Department and the Tulsa Dog Pound.

[2] The Court would note that the plaintiff nowhere cites the Fourteenth Amendment. However, a liberal reading of his complaint under Haines v. Kearnes, 404 U.S. 519 (1972) dictates the conclusion that the plaintiff's intention was to bring his causes of action under that provision.

From a careful review of the pleadings and the entire record herein regarding the TCCHD and its "head" it can be gleaned that the only claim asserted by plaintiff is that he is being treated differently than other residents in his neighborhood with respect to orders from health department officials to "clean up" certain unsanitary and unsafe conditions on his property. In other words, the plaintiff alleges that he and others similarly situated are not being treated uniformly in the enforcement of certain municipal nuisance ordinances and state laws.

There have been a number of cases which have held that, normally, selective enforcement or prosecution does not fall within the scope of the equal protection clause and/or does not present a justiciable claim under 42 U.S.C. §1983. Taylor v. Nichols, 409 F.Supp. 927 (D.C.Kan. 1976), police officers are not that type of class afforded special protection by the equal protection clause of the Fourteenth Amendment; Oyler v. Boles, 368 U.S. 448 (1962); Cook v. City of Price, Carbon County, Utah, 566 F.2d 699 (10th Cir. 1977). In Oyler it was recognized that selective enforcement or prosecution is not unconstitutional, if the selection is not based deliberately on an unjustifiable categorization, such as race, religion or other arbitrary classification. In other words, when the discrimination is not aimed at a 'suspect class' a plaintiff must show intentional or purposeful discrimination. Cook, supra at 701.

The plaintiff, in his claims against the TCCHD and its "head", alleges nothing more than he and others similarly situated are treated differently. No class based discrimination is alleged and none is apparent from the record. Furthermore, and more importantly, defendant TCCHD has attached a computer printout of all complaints and efforts to enforce certain nuisance statutes in a one-square mile area surrounding the plaintiff's property from 1978 through October 15, 1981. Also attached to the defendants' motion is the record of the

plaintiff's involvement with the Environmental Protection Division of the TCCHD from 1976 to 1981. What these attachments conclusively show is that from 1978 to October, 1981 approximately seven hundred fifty (750) complaints were investigated and various actions taken thereon for the one square mile surrounding the plaintiff's property. On only four (4) of these numerous complaints was the plaintiff's property involved and on each occasion compliance with the orders issued was eventually obtained. The plaintiff was involved with TCCHD officials on two occasions between 1976 and 1978.

The plaintiff, in his response, has come forward with nothing that would allow this Court to conclude anything other than, that his allegations of unequal enforcement are not correct or that, if there has been some selective enforcement against him, that it was not occasioned by the fact that his premises constituted a nuisance, as defined by city ordinances and state law. It should be noted that the plaintiff never alleges he was not in violation of the nuisance laws, but that others, that the plaintiff perceived to be in violation, were not treated equally. On such a record, this Court concludes that no issue as to any material fact exists which would warrant a trial in this case and that summary judgment should be granted in defendant TCCHD and defendant "Head of Health Deptartment's" favor. The plaintiff cannot rest on the mere allegations of his complaint or unsworn pleadings when the opposing party properly sets forth in affidavits or otherwise that no genuine issues of material fact exist that would warrant a trial. Fed.R.Civ.P. 56(e); Prochaska v. Narcoux, 632 F.2d 848 (10th Cir. 1980). The plaintiff must make some affirmative showing, by affidavit or otherwise, that there is a material fact in dispute which would preclude a grant of summary judgment in favor of his opponent. The plaintiff has failed to make such an affirmative showing and the record clearly reflects no intentional or purposeful discrimination.

The plaintiff's complaint, as it relates to the Tulsa Dog Pound and/or "Head of Tulsa Dog Pound" (hereafter dog pound) appears to allege conflicting positions. On the one hand, the plaintiff alleges that citations for stray animals are disproportionately issued in, what the plaintiff perceives to be poorer neighborhoods, rather than more "well-to-do" vicinities of Tulsa and, on the other, that the plaintiff and another woman on his street are the only ones issued citations in his neighborhood. The stray dog allegations concern a time period from January, 1981 and the following two or three months, according to the plaintiff.

The record reflects, through affidavits submitted by defendant dog pound, that over fifty citations were issued by the humane officer covering the area of his responsibility, which includes the plaintiff's property, from February 14, 1981 to March 15, 1981. The plaintiff apparently received two citations during this general period, one on February 20, 1981 and another on May 22, 1981. The plaintiff plead guilty to the first citation and was assessed court costs and a suspended fine. On the second citation the plaintiff waived a jury trial and agreed to pass his case for a period of time, with the understanding that, if he should obey all city ordinances, the case against him would be dismissed. See affidavits of Municipal Judges John Turner and Lawrence A. Yeagley, attached to defendant dog pound's brief in support if its motion.[3]

The record clearly reflects that the plaintiff was treated no differently than others in the humane officer's area of responsibility. The unequal treatment allegations of those similarly situated, like those regarding the unsanitary and

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[3] The plaintiff apparently feels that the disposition of his second citation was not as set out in the body of this Order, but this disagreement is not relevant to the issues determined necessary for a correct decision of the defendant's motion.

unsafe condition of plaintiff's premises, do not rise to the level of a constitutional violation in this situation. They are not born out by the record and the plaintiff has submitted nothing which would warrant a different conclusion.

The allegations concerning discrimination on the basis of poverty are somewhat more complex. Classifications based on poverty or wealth are disfavored, especially when a fundamental right is involved. Harper v. Virginia Board of Elections, 383 U.S. 663 (1966). However, the plaintiff's complaint contains merely conclusory allegations in this regard. The plaintiff's complaint, in this regard, states:

> The Dog catcher and the City Dog Pound are using their power and their power of office to harass people and discriminate and penalize people on the North and West side of town for being poor. There would be 50 tickets or more written on the North side, compared to one ticket on the South side.

An affidavit of a humane officer, with administrative responsibility, states that the number of stray animal citations are fairly evenly distributed throughout the city and that any variance as to geographic location would be based on the acute problems with stray animals in those sections of the city. This clearly shows that any disparity is not based on the poverty or wealth of an individual, but on the legitimate concerns of city officials to eradicate stray animals where they are found. Again the plaintiff has come forward with no affirmative showing which would warrant a different conclusion. He merely rests on the conclusory allegations in his complaint and the unsworn allegations in his responses. The Court, therefore, concludes that there is no genuine issue as to any material fact regarding plaintiff's claims against the dog pound and summary judgment should be granted in defendant dog pound's favor.[4]

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[4] The plaintiff's complaint and his responses to the defendants' motions contain numerous other allegations concerning his treatment by city officials with the TCCHD or the dog pound. These allegations all relate to the same

The Court would further note that nowhere does the plaintiff set forth the relief he is requesting from this Court as required by Fed.R.Civ.P. 8(a). Normally, this Court would allow the plaintiff to amend his complaint to include a prayer for relief. However, because of the Court's conclusions concerning the defendants' motions, allowing such an amendment would be an exercise in futility. Again, almost exclusively, the plaintiff's complaint and responses to the defendants' motions are ripe with conclusory allegations that are lacking any factual basis or they are structured in the form of questioning the actions of defendants or their employees. The plaintiff requests no relief and he has made no affirmative showing that would raise a material factual issue concerning his causes of action.

For the above reasons, it is the Order of this Court that the motions of defendants, as converted to motions for summary judgment, are sustained.

It is so Ordered this 8th day of September, 1982.

H. DALE COOK
Chief Judge, U. S. District Court

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matters discussed in the body of this Order. The Court has carefully considered these assertions and has concluded that they do not constitute violations of the plaintiff's civil rights under 42 U.S.C. §1983. Plaintiff's claims of harassment are not borne out by the record and any contact he may have had with city officials of the TCCHD or the dog pound were initiated by the plaintiff himself, by others complaining about the condition of his property or through routine patrols made periodically in the plaintiff's neighborhood.

FILED

SEP 7 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WAYCO OIL COMPANY, a partnership composed of Howard Holloway and Wayne Ramey, Plaintiff,	)	
vs.	)	No. 82-C-333-B
SERVICE FRACTURING COMPANY, a corporation, and SCOTT WINLOCK, Defendants.	)	

ORDER

NOW, on this 7 day of September, 1982, the Court, having reviewed the Joint Application for Dismissal as filed herein, and for good cause shown, hereby dismisses the instant action for want of jurisdiction.

DATED this 7 day of September, 1982.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-776-C
CHARLES B. TUNE, Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 7th day of Sept, 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Don J. Guy, Assistant United States Attorney, and the Defendant, Charles B. Tune, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Charles B. Tune, was personally served with Summons and Complaint on August 23, 1982. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of $236.60, plus 15% interest from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Charles B. Tune, in the amount of $236.60, plus 15% interest from the date of this Judgment until paid.

/s/ H. Dale Cook
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Don J. Guy
DON J. GUY
Assistant U.S. Attorney

Charles B. Tune
CHARLES B. TUNE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 7 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA, Plaintiff,	)	
v.	)	No. 82-C-61-B
DONALD L. ROSS, Defendant.	)	

ORDER OF DISMISSAL

This matter comes before the Court on plaintiff's Motion for Dismissal without prejudice. In support of its motion, plaintiff states defendant has satisfied his obligation to plaintiff in the above-captioned matter; however, inasmuch as defendant satisfied such obligation by means of a check, the Government requests the instant dismissal be entered without prejudice in order to allow time for the check to be paid. Having considered the foregoing,

IT IS ORDERED plaintiff's Motion for Dismissal is hereby granted and the action dismissed without prejudice to its timely refiling.

ENTERED this 7th day of September, 1982.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

SEP 7 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff, vs. LEON W. GRAVES, Defendant.	)	CIVIL ACTION NO.82-C-747-E

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Nancy A. Nesbitt, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 7th day of September, 1982.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Nancy A. Nesbitt

NANCY A. NESBITT
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the [illegible] each of the [illegible] to [illegible] the [illegible] day of September, 1982.

Nancy A. Nesbitt
Assistant United States Attorney

FILED

SEP 7 1982

Jack C. Silver, Clerk
U.S. DISTRICT COURT

82-C-710-E

C-1-82-864

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
FILED

AUG -6 1982

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 486

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE RICHARDSON-MERRELL, INC. "BENDECTIN" PRODUCTS LIABILITY LITIGATION (NO. II)

Charles Wilson, et al. v. Merrell-Dow Pharmaceuticals, Inc., et al., N.D. Oklahoma, C.A. No. 82-C-710-E

CONDITIONAL TRANSFER ORDER

On February 9, 1982, the Panel transferred 47 civil actions to the United States District Court for the Southern District of Ohio for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 30 additional civil actions have been transferred to the Southern District of Ohio. With the consent of that court, all such actions have been assigned to the Honorable Carl B. Rubin.

It appears from the pleadings filed in the above-captioned action that it involves questions of fact which are common to the actions previously transferred to the Southern District of Ohio and assigned to Judge Rubin.

Pursuant to Rule 9 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 89 F.R.D. 273, 278-79, the above-captioned action is hereby transferred under 28 U.S.C. §1407 to the Southern District of Ohio for reasons stated in the order of February 9, 1982, 533 F. Supp. 489, and with the consent of that court assigned to the Honorable Carl B. Rubin.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the Southern District of Ohio. The transmittal of this order to said Clerk shall be stayed fifteen days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Inasmuch as no objection is pending at this time, the stay is lifted and this order becomes effective

AUG 24 1982

Patricia D. Howard
Clerk of the Panel

FILED
JOHN D. LYTER, CLERK
AUG 31 4 03 PM '82
U.S. DISTRICT COURT
N. DISTRICT OF OHIO

Patricia D. Howard
Clerk of the Panel

THIS IS A TRUE COPY
ATTEST Edna M. Harris
Deputy Clerk
Patricia D. Howard
Clerk, Judicial Panel on Multidistrict Litigation

A True Copy of the Original
Filed 8/31/82
Attest John D. Lyter, Clerk
By R. Anderson Deputy
Certified 9/2/82

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

EQUILEASE CORPORATION, A New York Corporation,	)	
Plaintiff,	)	
vs.	)	Case No. 82-C-656-C
RONALD L. STANHOPE, TEN WALLIN, JOHN LONGACRE d/b/a LONGACRE ENTERPRISES, FREEMAN HOLMES a/k/a FREEMAN HOLMES d/b/a S & H DRILLING COMPANY and BOB WHITWORTH, Creek County Sheriff,	)	
Defendants.	)	

JOURNAL ENTRY OF DEFAULT JUDGMENT

NOW ON the 7 day of September 1982, plaintiffs application for Default Judgment against the defendant Ronald L. Stanhope comes on to be heard in its regular setting, plaintiff appearing by its attorney, Bradford S. Baker, and defendant Ronald L. Stanhope appearing not.

The Court finds that it has jurisdiction of the parties and the subject matter; that said defendant was served on the 6th day of July 1982 and was required to plead or answer on or before the 26th day of July, 1982; that to date said defendant has failed to plead or answer in the case and that, therefore, said defendant is in default.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Ronald L. Stanhope is adjudged to be in default and the allegation of plaintiffs petition be taken as true and confessed against said defendant.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that plaintiff recover judgment against Ronald L. Stanhope on its first cause of action for the immediate possession of one Cardwell model A150A 4,000 ft. capacity oil well drilling rig (SN:101) together with all ancillary equipment and the appurtenances thereon as more fully set forth in Exhibit "A" which is attached and made a part hereof plus the costs of this action accrued and accruing, including a reasonable attorney's fee of $ 1000 00 ; that the Security Agreement of the plaintiff be and hereby is adjudged a valid lien upon the above described property,

prior and superior to the interest of the defendant and that the defendant deliver to the plaintiff the above described property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that plaintiff recover judgment against defendant Ronald L. Stanhope on its second cause of action in the sum of $1,211,719.90 with interest at the rate of 6% per annum from March 7, 1982 until the date of judgment and hereafter at the rate of 15% per annum until paid plus an attorney's fee of 20% of the balance due as provided for in the promissory note, which sum is $24,234.00, and the costs of this action, accrued and accruing.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that plaintiffs Security Interest Lien be foreclosed and that the defendant Ronald L. Stanhope be forever barred from any lien, estate, interest or title in and to the said property, and that, subject to any interest which the other defendants may have, said property be sold to satisfy judgments on its first and second causes of action; that execution on plaintiffs judgment on its second cause of action be stayed unless plaintiff does not obtain possession of the above described property or, if plaintiff does obtain possession of said property, until said property be sold and the proceeds of the sale be applied to the payment of (1) cost and expenses, (2) attorney fees, (3) judgment of the plaintiff on its first and second causes of action and any judgments which the other defendants may obtain against plaintiff in this action; and that after sale of said property, execution may issue for any defiency due and owing to plaintiff or to the other defendants, if any, and if there be no defiency due, than the balance remaining be paid into this court for the benefit of the defendant Ronald L. Stanhope and all parties claiming an iterest in said property by or through said defendant.

Done this 7 day of September, 1982.

S/H. DALE COOK

JUDGE H. DALE COOK

FILED

SEP - 7 1982

JACK C. SILVER, CLERK
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 81-C-798-B
ROY L. ROGERS,	)	
Defendant.	)	

AGREED JUDGMENT

This matter comes on for consideration this 7th day of September 1982, the Plaintiff appearing by Frank Keating, United States Attorney for the Northern District of Oklahoma, through Don J. Guy, Assistant United States Attorney, and the Defendant, Roy L. Rogers, appearing pro se.

The Court, being fully advised and having examined the file herein, finds that the Defendant, Roy L. Rogers, was personally served with an Alias Summons and Complaint on August 13, 1982. The Defendant has not filed his Answer but in lieu thereof has agreed that he is indebted to the Plaintiff in the amount alleged in the Complaint and that Judgment may accordingly be entered against him in the amount of $815.53, plus 15% interest from the date of this Judgment until paid.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover Judgment against the Defendant, Roy L. Rogers, in the amount of $815.53, plus 15% interest from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APPROVED:

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Don J. Guy

DON J. GUY
Assistant U.S. Attorney

ROY L. ROGERS

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN C. SHEPPARD
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO.81-C-827-E
T. M. STANDINGWATER,	)	
	)	
Defendant.	)	

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Don J. Guy, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 7th day of September, 1982.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Don J. Guy

DON J. GUY
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF OKLAHOMA

[illegible] and through [illegible] Jan, NORVEL RAY THOMAS [illegible], and NORVEL RAY THOMAS, JR., Personal Representative of the Estates of Christine Thomas and Allen Dale Thomas,	)	FILED
Plaintiffs,	)	SEP - 3 1982
	)	Jack C. Silver, Clerk U. S. DISTRICT COURT
[illegible] CONNERS [illegible] ETING [illegible] OSGOOD [illegible],	)	
Defendants	)	Case No. 8[illegible]-75

DISMISSAL

[illegible] the Plaintiffs and hereby dismisses [illegible] Osgood Allen.

Dated this ____ day of Septemb[illegible] 198[illegible].

LANG, JAMES & BINGHAM, INC.

By: _____
R. MICHAEL [illegible]
FOR THE FIRM
5 West [illegible]
Tulsa, OK [illegible]
(918) 585-[illegible]

Attorneys [illegible]

CERTIFICATE OF MAILING

[illegible] hereby certify that [illegible] date [illegible] in Court [illegible] mailing [illegible] Attorney At Law, 2900 [illegible] Oklahoma 74119 with postage [illegible] prepaid.

R. MICHAEL [illegible]

FILED
SEP 2 1982
Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff, vs. BILL S. BINGHAM, Defendant.	))))))))	CIVIL ACTION NO. 82-C-679-B

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Nancy A. Nesbitt, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 2nd day of September, 1982.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Nancy A. Nesbitt

NANCY A. NESBITT
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 2nd day of September, 1982.

Nancy A. Nesbitt
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

CHAMPLIN PETROLEUM COMPANY, a Delaware corporation,	)	
Plaintiff,	)	
vs.	)	Cause No. 82-C-453-B
H.B.H. OIL COMPANY, a limited partnership; LARRY M. HAMBLET, R.E. BRESNAHAN, AND M.G. HUDDLESTON,	)	
Defendant.	)	

ORDER TO DISMISS WITHOUT PREJUDICE
PENDING FULL COMPLIANCE WITH SETTLEMENT AGREEMENT

Now on this 2nd day of Sept, 1982, upon application of the attorney of record, this court finds the same should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED to dismiss without prejudice the above entitled action retaining jurisdiction over the action until full compliance with the Settlement Agreement filed June 24, 1982 has been effected.

Unless the Court is requested to reopen the case, such dismissal will become final on January 1, 1983 when the full amount of the principal remaining unpaid shall be due pursuant to the terms of the Settlement Agreement.

S/Thomas R Brett
JUDGE

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

MONTGOMERY WARD & CO., INCORPORATED,	)	
Plaintiff,	)	
v.	)	No. 82-C-654-E
SOUTHWEST SPORTING GOODS COMPANY,	)	
Defendant.	)	

JOURNAL ENTRY OF JUDGMENT BY DEFAULT

On this 30th day of August, 1982, this matter comes on before the Clerk of this Court pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure. Pursuant to said Rule, the Court Clerk has considered the Motion of the Plaintiff, has examined the Affidavit of the Plaintiff, and finds that judgment should be entered against the Defendant in the amount of $27,514.79, together with interest at the rate of 15 percent per annum from the date of this judgment until paid, and the costs of this action.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Plaintiff have judgment against the Defendant in the amount of $27,514.79, together with interest at the rate of 15 percent per annum from the date of judgment until paid, and the costs of this action.

Jack C. Silver
Court Clerk of the United
States District Court for the
Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROBERT D. ORTENBURGER and BETTY W. ORTENBURGER,	)	
Plaintiffs,	)	
vs.	)	Case No. 81-C-599-E
BRUCE H. HARLTON, JR., and BILLIE HARLTON, husband and wife, and THE UNITED STATES OF AMERICA, et al,	)	
Defendants.	)	

FILED

SEP - 2 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF REMAND

NOW, on this 31st day of August, 1982, the above-entitled cause coming on tor pretrial conference and the court having examined the files and records in the case and being otherwise fully advise, FINDS:

1. That heretofore, on or about April 13, 1982, The United States of America, Defendant herein, disclaimed any right, title or interest in and to the real property which is the subject of this action, and upon motion properly made and presented, was allowed to withdraw its answer on file herein.

2. That with the loss of The United States of America as a party to this action, this court has lost its basis for jurisdiction under 28 USC §§1441 and 1444, and that said cause should be remanded to the District Court of Tulsa County, Oklahoma, Case No. C-81-2336.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that this cause of action be, and the same is hereby ordered remanded to the District Court of Tulsa County, Oklahoma, Case No. C-81-2336, for further proceedings.

S/ JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

FILED

1982

U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, Plaintiff,	)	
vs.	)	CIVIL ACTION NO.82-C-216-E
LARRY L. COX, Defendant.	)	

NOTICE OF DISMISSAL

COMES NOW the United States of America by Frank Keating, United States Attorney for the Northern District of Oklahoma, Plaintiff herein, through Nancy A. Nesbitt, Assistant United States Attorney, and hereby gives notice of its dismissal, pursuant to Rule 41, Federal Rules of Civil Procedure, of this action without prejudice.

Dated this 2nd day of September, 1982.

UNITED STATES OF AMERICA

FRANK KEATING
United States Attorney

Nancy A. Nesbitt

NANCY A. NESBITT
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing pleading was served on each of the parties hereto by mailing the same to them or to their attorneys of record on the 2nd day of September, 1982.

Nancy A. Nesbitt
Assistant United States Attorney

FILED

SEP - 1 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

GEARHART INDUSTRIES, INC., a Texas corporation, formerly Go Wireline Services, Inc.,	)	
Plaintiff,	)	
vs.	)	No. 80-C-215-B
WAGON WHEEL ENERGY CORPORATION, an Oklahoma corporation; et al.,	)	
Defendants.	)	

ORDER OF DISMISSAL WITHOUT PREJUDICE

On September 1, 1982, the captioned matter came on for pre-trial conference pursuant to regular setting and notice to counsel of record. The following counsel appeared at the pre-trial conference: William E. Dougherty, Jr., Esq., attorney for Gearhart Industries, Inc., Ronald G. Raynolds, Esq., attorney for K&G Investments, Inc., Carlson Resources, Inc., and Admiral Oil & Gas Inc., and Thomas Kirby, attorney for Consolidated Pipe & Supply Co., Inc., each having filed a motion to dismiss without prejudice their respective claims, cross-claims, and counterclaims. William E. Dougherty, Jr., counsel for Gearhart Industries, Inc., reported to the Court he had consulted with attorney Stanley L. Basler, Esq., and David P. Rowland, Esq., counsel for Liberty Pipe, Inc., and each had stated to him they concurred in the dismissal without prejudice of all claims, cross-claims and counterclaims on behalf of their client, Liberty Pipe, Inc.

David R. Poplin, Esq., has filed a motion to dismiss without prejudice on behalf of Cooper Wholesale, Inc.

The following parties: Keystone Pipe & Supply Company, Billy R. Walker, Peerless Materials Company, BenMor International Corporation, R&S Energy and Wagon Wheel Energy Corporation, failed to appear for the pre-trial conference.

IT IS THEREFORE ORDERED AND ADJUDGED the claims of the plaintiff herein, and the cross-claims and counterclaims of all defendants herein are hereby dismissed without prejudice to the timely refiling of same.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

SEP - 1 1982

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION NO. 82-C-177-B
DEBORAH B. GILDERSLEEVE,	)	
Defendant.	)	

DEFAULT JUDGMENT

This matter comes on for consideration this 31st day of August, 1982, the Plaintiff appearing by Frank Keating, United States Attorney, through Don J. Guy, Assistant United States Attorney for the Northern District of Oklahoma, and the Defendant, Deborah B. Gildersleeve, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Deborah B. Gildersleeve, was personally served with Summons and Complaint on March 10, 1982. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover Judgment against Defendant, Deborah B. Gildersleeve, for the principal sum of $242.40, plus interest at the legal rate (15%) from the date of this Judgment until paid.

S/ THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

SEP 1 1982

Jack C. Silver, Clerk
U.S. DISTRICT COURT

IN THE MATTER OF GRAND JURY SUBPOENA DUCES TECUM ISSUED ON JUNE 9, 1982, to "CUSTODIAN OF RECORDS, ELLISON, NELSON and KENNEDY," Attorneys.	)	Case No. G/J 82-5-1-2-B

G/J 82-5-1-2-B

O R D E R

The matter presently before the Court for consideration are motions to quash a grand jury subpoena duces tecum issued to "Custodian of Records", Ellison, Nelson and Kennedy, Attorneys urged by the targets of a grand jury investigation, Finis and Doris Smith and certain related business entities, as well as by the targets' attorney/accountant and custodian of the subject records, Kenneth Ellison.

Ellison, as attorney and custodian of the subject records, moved to quash the subpoena on the basis of the attorney-client privilege and the attorney work product privilege. The targets also moved to quash the subpoena, asserting the two privileges just stated as well as their Fifth Amendment rights to be free from self-incrimination.[1/] The targets also alleged enforcement of the subpoena would violate their Fourth Amendment rights to be free from unreasonable searches and seizures.

1/ Inasmuch as the target business entities appear to be incorporated, no claim of Fifth Amendment privilege is properly cognizable on their behalf. Where applicable, however, the discussion below regarding the various privileges asserted by the Smiths applies equally to the business entities.

The matter came on for hearing on August 17, 1982 at which time the Court first determined there exists no dispute the subpoena here in issue was properly and validly issued and served. Sworn testimony was given by Special Agent David Brechwald of the Federal Bureau of Investigation that the grand jury was investigating possible violations by the targets of certain specified federal criminal statutes and that the records sought to be produced relate to the matters under investigation.[2/] Due to the Court's concern as to the possible overbreadth of the subpoena, the subpoena was reformed with the agreement of counsel for the Government. As reformed, the subpoena directs the production of the federal income tax returns and work papers, correspondence, and financial statements related thereto, of Finis and Doris Smith, Dorokee Co., Jonis Co., and Andor, Inc., for the years 1977-81. Reformation of the subpoena notwithstanding, the movants persisted in their claims of privilege and the Court directed the custodian, Ellison, to furnish the subject records to the Court for in camera inspection. Upon the Court's in camera inspection of the same, and after consideration of the supplemental briefs and affidavits filed in the interim by the parties, the matter came on for hearing again on August 24, 1982. The Court informed the parties it had extracted three documents from the records submitted, concluding such documents were impressed with the attorney-client privilege; however, the Court concluded the

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2/ Viewed as a whole, Special Agent Brechwald's testimony was more than what is required under In the Matter of Berry, 521 F.2d 179, 184 (10th Cir.) cert. denied, 423 U.S. 928, reh. denied, 423 U.S. 1039 (1975) ("Relevancy and materiality are not pertinent to subpoena enforcement.").

remainder of the documents were not protected by any of the privileges asserted, and the records would, therefore, be ordered to be produced in accordance with the grand jury subpoena duces tecum.

I.

As an initial matter, the Court notes the assertion of the attorney work product privilege with respect to the subject records is not well taken. It is well established the work product privilege applies only to papers and other matter prepared in conjunction with or in anticipation of litigation. Hickman v. Taylor, 329 U.S. 495 (1947); In Re September 1975 Grand Jury (Thompson), 532 F.2d 734, 738 (10th Cir. 1976); Natta v. Hogan, 392 F.2d 686, 693 (10th Cir. 1968). The Court's inspection of the materials submitted reveals the documents are not of that nature. Accordingly, the movant's assertion of the work product privilege must be overruled.

The movants' assertion that enforcement of the subpoena would violate their Fourth Amendment rights was similarly addressed and rejected in both Couch v. United States, 409 U.S. 322, 336 (1973), and Fisher v. United States, 425 U.S. 391, 401 nn. 6 and 7 (1976). In the instant matter, the Government adduced testimony from the Special Agent in charge of the investigation that the material sought was relevant to the grand jury investigation, and any problems of overbreadth were eliminated by the Court's reformation of the subpoena.

Further, the Court of Appeals for the Tenth Circuit has set forth the standards by which a subpoena must be judged to

determine whether it comports with the guarantees of the Fourth Amendment. In United States v. Gurule, 437 F.2d 239 (10th Cir. 1970), the Court laid down three requirements for a grand jury subpoena duces tecum:

> 1. That the subpoena may command only the production of things relevant to the investigation of the thing being pursued.
>
> 2. Specification of things to be produced must be made with reasonable particularity.
>
> 3. Production of records covering only a reasonable period of time may be required.

437 F.2d at 241. See also, In the Matter of Berry, 521 F.2d 179, 183 (10th Cir.), cert. denied, 423 U.S. 928, reh. denied, 423 U.S. 1039 (1975). As noted above, the testimony of Special Agent Brechwald satisfied the Court as to the relevancy of the materials being pursued, and the Court's concerns as to the specificity of the records sought were eliminated by the narrowing of the language of the subpoena. The Court also concludes the time period specified in the subpoena, that is, 1977-81, is a reasonable period of time. Hence, the movants' Fourth Amendment claims must fail.

With respect to the assertion of the attorney-client privilege, the Supreme Court's decision in Fisher v. United States, 425 U.S. 391 (1976), is instructive. As Mr. Justice White stated in Fisher:

> In these two cases we are called upon to decide whether a summons directing an attorney to produce documents delivered to him by his client in connection with the attorney-client relationship is enforceable over claims that the documents were constitutionally immune from summons in the hands of the client and retained that immunity in the hands of the attorney.

425 U.S. at 393. Although similar in many respects to the instant case, the factual distinctions between the cases before the Court in Fisher and the matter presently before this Court are important and should be noted at the outset of the analysis herein. In Fisher, the taxpayers in each case had been contacted by agents of the Internal Revenue Service ("IRS") and interviewed in connection with an investigation of possible civil or criminal liability under the federal income tax laws. Shortly after the interviews, the taxpayers obtained from their accountants certain documents relating to the preparation of their tax returns. Thereafter, the taxpayers transferred such documents to their respective lawyers, each of whom was retained to assist the respective taxpayers in connection with the IRS investigation. Id. at 393-4. Upon discovering the whereabouts of the documents, the IRS issued summonses to the respective attorneys demanding production of the same. When the attorneys refused to produce the documents, asserting various privileges, the Government commenced enforcement actions against the taxpayers. Id. at 394-5.

In the matter at bar, the documents sought to be produced by the grand jury subpoena duces tecum have apparently been in the hands of the attorney Ellison for some years; in any event, the record does not show that the records were transferred to Ellison in conjunction with the grand jury investigation; nor does the record reflect Ellison was retained as attorney by the targets of the grand jury investigation for legal assistance

in connection with that investigation.[3/]

In Fisher, as an initial matter, the Court determined the taxpayers' assertions of Fifth Amendment privilege, standing alone, were insufficient to bar enforcement of the summonses. Relying on its decision in Couch v. United States, 409 U.S. 322 (1973), the Court noted:

> The taxpayers' privilege under this Amendment is not violated by enforcement of the summonses involved in these cases because enforcement against a taxpayer's lawyer would not 'compel' the taxpayer to do anything -- and certainly would not compel him to be a 'witness' against himself. The Court has held repeatedly that the Fifth Amendment is limited to prohibiting the use of 'physical or moral compulsion' exerted on the person asserting the privilege, Perlman v. United States, 247 U.S. 7, 15 (1918); Johnson v. United States, 228 U.S. 457, 458 (1913); Couch v. United States, supra, at 328, 336.

425 U.S. at 397. The Court went on to explain the taxpayers retain any privilege they ever had from being compelled to be a witness against themselves and not to be compelled themselves to produce private papers in their possession. The taxpayers' Fifth Amendment privilege was not decreased by the transfer of the documents to their attorneys. Id. at 398. With respect to the Fifth Amendment claim standing alone, then, the Fisher opinion may be summarized as stating,

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3/ In this regard, unlike the situation in Fisher, the Court notes the targets are represented in this matter by an attorney from another law firm located in a different city.

> It is simply that by reason of the transfer of the documents to the attorneys, those papers may be subpoenaed without compulsion on the taxpayer. The protection of the Fifth Amendment is therefore not available. 'A party is privileged from producing evidence but not from its production.' Johnson v. United States, supra, [228 U.S. 457] 458.

Id. at 398-9.

In response to the assertion by the taxpayers in Fisher that the Fifth Amendment bars the production of "private" information, the Court pointed out:

> Insofar as private information not obtained through compelled self-incriminating testimony is legally protected, its protection stems from other sources [footnote omitted] -- the Fourth Amendment's protection against seizures without warrant or probable cause and against subpoenas which suffer from 'too much indefiniteness or breadth in the things required to be 'particularly described,' Oklahoma Press Pub. Co. v. Walling, 327 U.S. 186, 208 (1946); In re Horowitz, 482 F.2d 72, 75-80 (CA2 1973)(Friendly, J.); the First Amendment, see NAACP v. Alabama, 357 U.S. 449, 462 (1958); or evidentiary privileges such as the attorney-client privilege. [footnote omitted]

Id. at 401. Thus, in the instant case, the assertion of the Smiths' Fifth Amendment privilege, standing alone, will not bar enforcement of the subpoena directed to the attorney who has custody of the documents in question.

As the Fisher Court stated it, the next inquiry to be made is whether the attorney-client privilege applies to documents in the hands of the attorney which would have been protected by reason of the Fifth Amendment in the hands of the client. 425 U.S. at 402.

> 'It follows, then, that when the client himself would be privileged from production of the document, either as a party at common law ... or as exempt from self-incrimination, the attorney having possession of the document is not bound to produce.' 8 Wigmore §2307, p. 592. [emphasis in original]

Id. at 404. In the instant matter, the Court having determined the subpoena does not run afoul of the requirements of the Fourth Amendment, and the work product privilege has no application here, the only bar to enforcement which might remain is the Smiths' assertion of Fifth Amendment privilege. In accordance with Fisher then, if the documents in question are privileged in the hands of the Smiths by reason of the Fifth Amendment, they remain impressed with the privilege, albeit properly styled the attorney-client privilege, in the hands of attorney Ellison.

The Fifth Amendment privilege extends to communications which are both testimonial and incriminating. See Fisher, supra, at 405-9. In the case at bar, the Smiths have not asserted the privilege with respect to individual documents[4/]; rather a blanket assertion of privilege has been made. This being the case, there is nothing in the record before the Court suggesting which, if any, of the documents were authored by the Smiths.[5/] Inasmuch as the burden of

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4/ It is apparent to the Court the failure of the movants to specify which privilege attached to which document and the reason therefor would have justified the Court in overruling the motion to quash on that basis alone.

5/ Of course, the mere fact a document may have been written by one of the Smiths is insufficient to trigger the privilege. Wilson v. United States, 221 U.S. 361, 378 (1911). See also, Fisher v. United States, 425 U.S. 391, 410 n. 11 (1978).

demonstrating privilege rests clearly with the party asserting the privilege[6/], the Court must conclude documents herein in the hands of the attorney were prepared by the attorney unless the face of a document indicates otherwise. In any event, the Court's examination of the documents in question revealed no documents which were both testimonial and incriminating in nature.[7/] The documents of the Smiths in attorney Ellison's file fall in three categories: (1) income tax work sheets or schedules prepared by attorney Ellison concerning his preparation of the 1977 through 1981 Smith joint income tax returns; (2) the 1977 through 1981 Smith joint income tax returns prepared and completed by attorney Ellison; and (3) a few accounting or financial documents furnished by the Smiths to attorney Ellison for him to use in preparation of said joint income tax returns.

6/ See, e.g., United States v. Hodgson, 492 F.2d 1175, 1177 (10 Cir. 1974).

7/ As noted hereinabove, the Court extracted three documents from the materials submitted for in camera inspection concluding they were impressed with the attorney-client privilege. The Court's conclusion in this regard was based on the Court's perception that the communications set forth in those documents were made in confidence and in the course of the attorney-client relationship. Subsequently, upon being informed by attorney Ellison one of the correspondents to one of the documents was not an attorney, but was rather a staff member in Ellison's office, the Court's convictions as to the privileged nature of the communication have not remained as strong as they initially were. Specifically, it has not been revealed to the Court whether the correspondent in question was an accountant performing an accounting function at the direction of Ellison while the latter was performing accounting services. In any event, in view of the rule that the attorney-client privilege extends to agents of the attorney, specifically accountants, the Court remains of the opinion the three documents extracted are impressed with the attorney-client privilege. See, e.g., United States v. Brown, 478 F.2d 1038 (7 Cir. 1973), United States v. Kovel, 296 F.2d 918 (2 Cir. 1961).

In Fisher, the Court observed the act of producing has communicative aspects of its own. While the Court noted the elements of compulsion are clearly present where a documentary summons is concerned, the Court stated the more difficult issues in such a situation are whether the tacit admissions of the taxpayer are both testimonial and incriminating. In declining to fashion a broad rule, the Court declared,

> These questions perhaps do not lend themselves to categorical answers; their resolution may instead depend on the facts and circumstances of particular cases or classes thereof.

425 U.S. at 410. Given the factual distinctions between the Fisher case and the one at bar, primarily the fact that the documents sought to be produced in Fisher were apparently workpapers prepared by the accountants or retained copies of the taxpayers' federal income tax returns, Fisher does not directly control the instant matter. As discussed above, however, many of the principles enunciated in Fisher clearly have application here. It was not shown the materials in question are the "private papers" of the Smiths, containing testimonial and incriminating communications. Under Fisher, there can be no doubt that a successful assertion of privilege must be predicated on such a showing. Even assuming the Smiths authored some or all of the documents, and the documents contain testimonial communications of some kind, the assertion of privilege would nevertheless be found to be lacking as the requisite of "incrimination" is absent. Accordingly, the Smiths' claims of Fifth Amendment privilege must be overruled, and, under Fisher, without a valid underlying claim of privilege, the assertion of the attorney-client privilege must necessarily fail as well.

The Court would be remiss in this case were it not to address the movant's argument that confidential communications to one holding himself out as an attorney are necessarily impressed with the attorney-client privilege when the attorney is also a public accountant and engages in the performance of accounting services. In response to the Court's suggestion that the relevant inquiry in such cases would be to determine whether the individual was "wearing his attorney's hat or his accountant's hat" in connection with the services rendered, counsel declared that there was no basis for making such a distinction. In other words, the contention of counsel is that if one is an attorney and engages in the practice of law, the fact that the attorney also engaged in the accounting functions is irrelevant to the validity of an assertion of the attorney-client privilege. Thereafter, in support of this position, counsel offered two affidavits of the attorney Ellison which state in conclusory terms that the services provided the Smiths and their related business entities were legal in nature. As noted above, no claims of privilege have ever been made with respect to specific documents, and the affidavits of Ellison do not identify which specific documents are purportedly legal in nature. Indeed, there has never been any specification as to which documents are assertedly impressed with the attorney-client privilege, or the work product privilege, or the Fifth Amendment privilege; nor has there ever been an attempt to explain why any particular document should be found to be privileged under any of the privileges asserted. All of

this only goes to demonstrate why blanket claims of privilege are generally not favored, and the general and conclusory statements set forth in the affidavits do not provide the Court any assistance in ascertaining whether any document should be found to be privileged, or why the documents submitted should more properly be characterized as legal in nature as opposed to accounting.

The movants' contention that the Court should not recognize any distinction between legal and accounting functions in passing on the validity of an assertion of the attorney-client privilege where the attorney is also an accountant is not supported in the case law. The case of Olender v. United States, 210 F.2d 795 (9th Cir. 1954), contains an excellent discussion of the reasons for examining the nature of the services rendered by an attorney/accountant in considering a claim of attorney-client privilege. See Olender, supra, 210 F.2d at 806-7. Briefly stated, the Court there observed the attorney-client privilege is limited to communications made in the course of seeking legal advice from a professional legal adviser in his capacity as such. Further, the Court stated communications to an attorney in the course of seeking business, rather than legal, advice are not privileged. Id. at 806. See also, United States v. Threlkeld, 241 F.Supp. 324, 326 (W.D. Tenn. 1965). This statement of the rule comports with common sense and the policy reasons supporting the attorney-client privilege's existence. Having reviewed the documents submitted in the instant case page by page, it is clear the documents are of a financial and accounting nature pertaining to the routine annual preparation of the Smiths' joint income tax returns by Ellison.

In summary, the Court having inspected the subject documents in camera, having extracted the only documents it concludes are impressed with a properly asserted privilege, and having concluded the enforcement of the subpoena would not violate the Smiths' Fourth Amendment rights, the motions to quash must be denied.

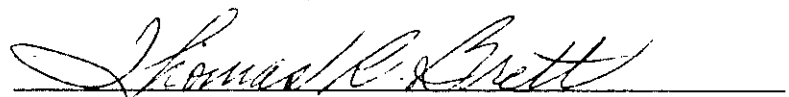
II.

The Court having orally indicated to counsel on August 25, 1982 its conclusions with respect to the various assertions of privilege and the Court's intention to overrule the motions to quash, counsel for the Smiths filed their Notice of Appeal on August 25, 1982. Subsequently, although the Court concluded the Smiths could prosecute an immediate appeal under Perlman v. United States, 247 U.S. 7 (1918), and the many cases following it, the Court determined the custodian Ellison could not immediately appeal the Court's Order overruling the motion to quash under Cobbledick v. United States, 309 U.S. 323 (1940). Having informed counsel of the Court's conclusion in this regard, the matter came on for hearing again on August 26 and 27, 1982 at which time counsel for Ellison presented argument and authorities in support of his contention that he could maintain an immediate appeal. The Court concluded, however, Ellison could not appeal immediately and so informed counsel at the conclusion of the hearing on August 25, 1982.[8/] Accordingly, Ellison's counsel withdrew his client's Notice of Appeal on August 30, 1982.

8/ Ellison could have persisted in his recalcitrance and been found in contempt, whereupon an immediate appeal would have been available under 28 U.S.C.A. §1826. Ellison specifically elected not to refuse to produce the subpoenaed documents at the hearing of August 25, 1982.

IT IS THEREFORE ORDERED the motions to quash the grand jury subpoena duces tecum of Finis and Doris Smith and Kenneth Ellison are hereby denied.

ENTERED this 1st day of September, 1982.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

J. U. WOOD and HAZEL WOOD, individually and as co-Administrators of the Estate of Maynard Wood, Deceased,

Plaintiffs,

vs. No. 81-C-279-E

THE KANSAS CITY SOUTHERN RAILWAY COMPANY, a Missouri corporation,

Defendant.

FILED
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

The above styled case is hereby dismissed with prejudice per the order of the court and settlement of the case as dictated into the record on the 19th day of August, 1982.

9/1/82

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

CARL G. STEVENS, Attorney for Plaintiffs.

BURTON JOHNSON, Attorney for Defendant.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
U.S. DISTRICT COURT

SHIRLEY JEANNE WINSWORTH, as Administratrix of the estate of RICHARD HARLAN WINSWORTH, deceased, and as Guardian of the persons and estates of VICKI DENISE WINSWORTH and DOUGLAS OAKLEY WINSWORTH, minors,	)	
Plaintiff,	)	
vs.	)	No. 81-C-197-E
SYS MANUFACTURING CORPORATION, a foreign corporation, also known as SYS MANUFACTURING CO., a foreign corporation doing business as SYSTEMS MANUFACTURING COMPANY, a foreign corporation; and BUBLITZ MACHINERY COMPANY, a Missouri corporation,	)	
Defendants.	)	

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding; and all parties, being represented by their respective attorneys, announced that a settlement had been agreed to. After being fully advised in the premises, the Court finds and orders as follows:

It is ordered and adjudged that judgment be entered herein for plaintiff and against the defendants and for and in favor of the Plaintiff in the sum of Three Hundred Seventy Six Thousand Two Hundred Thirty Two Dollars and Fifty Seven Cents ($376,232.57) payable as follows:

I.

The sum of Five Thousand Two Hundred Thirty Two Dollars and Fifty Seven Cents ($5,232.57) payable to Shirley Jeanne Winsworth as Administratrix of the estate of Richard Harlan Winsworth, deceased, for medical, hospital and burial expenses.

II.

The sum of Sixty Thousand Dollars ($60,000.00) payable to Shirley Jeanne Winsworth as Administratrix of the estate of

Richard Harlan Winsworth, deceased for general damages and educational expenses.

III.

Delivery to Shirley Jeanne Winsworth an installment payment contract of First Colony Life Insurance Company, which payment contract is to be made by the First Colony Life Insurance Company providing for payments of One Thousand Dollars ($1,000.00) per month beginning on the 1st day of September, 1982 and continuing for a period of twenty (20) years (240 months) in the total amount of Two Hundred Forty Thousand Dollars ($240,000.00).

IV.

Delivery to Shirley Jeanne Winsworth or her assignees of installment payment contracts of First Colony Life Insurance Company, which payments are to be made by First Colony Life Insurance Company, providing for payments which will be made according to the terms thereof as follows:

(a) Two Hundred Dollars ($200.00) per month for a period of Five Years (60 months) to Richard Gregory Winsworth commencing on the 1st day of September, 1982, for total monthly payments of Twelve Thousand Dollars ($12,000.00); and Five Thousand Dollars ($5,000.00) on September 1, 1983, only.

(b) Two Hundred Dollars ($200.00) per month for a period of Five Years (60 months) to Vicki Denise Winsworth, commencing on the 1st day of September, 1982 for total monthly payments of Twelve Thousand Dollars ($12,000.00); and Five Thousand Dollars ($5,000.00) on the 1st day of September, 1983 and 1984, only.

(c) Two Hundred Dollars ($200.00) per month for a period of Five Years (60 months) to Douglas Oakley Winsworth commencing on the 1st day of September, 1982 for total monthly payments of Twelve Thousand Dollars ($12,000.00); and Five Thousand Dollars ($5,000.00) on the 1st day of September, 1983, 1984, 1985 and 1986, only.

The Court specifically finds that this settlement, and the distribution of the proceeds thereof between the Administratrix and surviving spouse, and the adult and minor children is just, fair and equitable.

It is further ordered and adjudged that the Cross-Claim of SYS Manufacturing Corporation filed herein against Bublitz Machinery Company be, and the same hereby is, dismissed with prejudice to a refiling.

It is further ordered and adjudged that the Third-Party Complaint of SYS Manufacturing Corporation filed herein against David O. Norvell be, and the same hereby is, dismissed with prejudice to a refiling.

It is further ordered and adjudged that the Cross-Claim of Bublitz Machinery Company filed herein against SYS Manufacturing Corporation be, and the same hereby is, dismissed with prejudice to a refiling.

Dated this _____ day of September, 1982.

S/ JAMES O. ELLISON

JAMES O. ELLISON, JUDGE OF THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

APPROVED AS TO FORM AND CONTENT:

THOMAS L. PALMER, INC.

By Thomas L. Palmer
Thomas L. Palmer, attorney for plaintiff

DARELL R. MATLOCK

By Darell R. Matlock
Darell R. Matlock, attorney for plaintiff

CHURCH & ROBERTS

By Donald Church
Donald Church, attorney for defendant
SYS Manufacturing Corporation

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

By R. P. Redemann
R. P. Redemann, attorney for defendant
Bublitz Machinery Company

Dale J. Briggs, attorney for
David O. Norvell

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

GENEVA N. NORVELL, Plaintiff, vs. SYS MANUFACTURING CORPORATION, d/b/a SYSTEMS MANUFACTURING CO., a foreign corporation; MORGAN STAINES and GRACE N. STAINES, Co-Administrators of the Estate of ROBERT STAINES, Deceased; P.H.E. HYDRAULICS, INC., a foreign corporation; PRINCE MANUFACTURING COMPANY, INC., a foreign corporation; BERT SIKLI; GEORGE YEWELL; ED WICKENHEISER; DELCO GRAVES; DAVID SYERS; ANTHES INCORPORATED, a foreign corporation, and HIGH REACH MANUFACTURING PRODUCTS COMPANY, a foreign corporation, Defendants.	)	FILED 1982 Jack C. Silver, Clerk U. S. DISTRICT COURT No. 81-C-354-E

ORDER OF DISMISSAL

This matter came on for consideration on this ____ day of September, 1982 upon the Joint Application For Dismissal With Prejudice filed herein. The Court being duly advised in the premises, finds that said application for dismissal is in the best interests of justice and should be approved, and the above styled and numbered cause of action dismissed with prejudice to a refiling.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Joint Application For Dismissal With Prejudice by the parties be and the same is hereby approved; and the above styled and numbered cause of action and complaint is dismissed with prejudice to a refiling.

S/ JAMES O. ELLISON

JAMES O. ELLISON
United States District Judge

Approved:

Dale J. Briggs, attorney for plaintiff

Donald Church, attorney for SYS Manufacturing Corporation; Morgan Staines and Grace N. Staines, Co-Administrators of the Estate of Robert Staines, deceased; Bert Sikli; George Yewell; Ed Wickenheiser; Delco Graves and David Syers

John R. Richards, attorney for P.H.E. Hydraulics, Inc.

Alfred B. Knight, attorney for Prince Manufacturing Company, Inc.

John J. Griffin, attorney for High Reach Manufacturing Products Company and Anthes, Incorporated

FILED
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICE COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JOHN G. LARNED and FLORENCE T. LARNED,	)	
Plaintiffs,	)	
vs.	)	NO. 81-C-540-E
HARRY DWAYNE BROWN and HAROLD E. SMITH, d/b/a H.E. SMITH, INC., a corporation,	)	
Defendants.	)	

ORDER OF DISMISSAL

ON this 1st day of Sept., 1982, upon the written application of the parties for a dismissal with prejudice of the Complaint and all causes of action. The Court having examined said application, finds that said parties have entered into a compromise settlement covering all claims and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS THEREOFRE ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiffs filed herein against the Defendants be and the same hereby are dismissed with prejudice to any future action.

James O. Ellison
Judge, District Court of the United States, Northern District of Oklahoma

APPROVALS:

Deryl Gotcher, attorney for the Plaintiffs

Richard D. Wagner, attorney for the Defendants